



OFFICE OF THE
INFORMATION & PRIVACY
COMMISSIONER
— for —
British Columbia

Order F05-37

ABBOTSFORD POLICE DEPARTMENT

Celia Francis, Adjudicator

December 14, 2005

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Summary: Applicant requested records related to a police investigation into the theft of his vehicle's licence plates. APD withheld some information under s. 22. Section 22 applies to the information and the APD is required to withhold it.

Key Words: unreasonable invasion—personal privacy—fair determination of rights—compiled and identifiable as part of investigation.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, ss. 22(1), 22(3)(b), 22(2)(c).

Authorities Considered: B.C.: Order 01-53, [2001] B.C.I.P.C.D. No. 56.

1.0 INTRODUCTION

[1] In an exchange of letters with the Abbotsford police Department (“APD”), the applicant requested and received copies of three police files related to the theft of licence plates from his vehicle. The APD disclosed one file in full and disclosed the other two in severed form, withholding small amounts of information under s. 22 of the *Freedom of Information and Protection of Privacy Act* (“Act”).

[2] The applicant requested a review of this decision. Because the matter did not settle in mediation, a written inquiry was held under Part 5 of the Act.

2.0 ISSUE

[3] The issue before me in this case is whether s. 22 of the Act requires the APD to refuse the applicant access to information. Under s. 57(2) of the Act, the applicant has the burden of proof regarding third-party personal information.

3.0 DISCUSSION

[4] **3.1 Application of Section 22**—Numerous orders have considered the application of s. 22. See, for example, Order 01-53.¹ I have applied here, without repeating it, the approach taken in those orders. The relevant portions of s. 22 read as follows:

Disclosure harmful to personal privacy

- 22(1) The head of a public body must refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of a third party's personal privacy.
- (2) In determining under subsection (1) or (3) whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the head of a public body must consider all the relevant circumstances, including whether ...
- (c) the personal information is relevant to a fair determination of the applicant's rights, ...
- (3) A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy if ...
- (b) the personal information was compiled and is identifiable as part of an investigation into a possible violation of law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation, ...

[5] **3.2 Does Section 22 Apply to the Information in Dispute?**—The severed information consists of the name and contact information of the “complainant”, that is, the person who reported sighting a vehicle with the applicant's stolen license plates, and the name, physical description and other information of another person, who may have obtained the licence plates.

[6] In its brief submission, the APD argues that it was required by s. 22 to withhold information in dispute. It refers to a number of orders in support of its position.²

[7] The applicant believes that the severed information related to the complainant is the name of an APD officer or some other peace officer and therefore should be released to him.

¹ [2001] B.C.I.P.C.D. No. 56.

² pp. 1-2, initial submission.

The applicant argues that the information related to the person who apparently obtained the licence plates relates to a fair determination of his rights under s. 22(2)(c) of the Act, as he believes that this person received them through someone else and that, among other things, this led the APD to discontinue its investigation of the theft. He makes other arguments which suggest that he believes the APD failed to pursue its investigation of the theft of his licence plates with sufficient vigour. He acknowledges that the information was compiled and is identifiable as part of an investigation into a possible violation of law, but argues that the disclosure is necessary to continue the investigation, under s. 22(3)(b) of the Act.³

[8] As the APD points out in its reply submission, the severed information on the complainant relates to a member of the public, not an APD officer. The APD also disputes the applicant's arguments on ss. 22(2)(c) and 22(3)(b).

[9] The records in question reveal that the APD investigated and dealt with the matters related to the theft of the applicant's licence plates and closed its files. It is abundantly clear from the records themselves that the severed information was compiled and is identifiable as part of an investigation into a possible violation of law. I find that s. 22(3)(b) applies to the severed information. Disclosure of this information is therefore presumed to be an unreasonable invasion of third-party personal privacy.

[10] Turning to a consideration of the relevant circumstances, it is not clear from the applicant's arguments on s. 22(2)(c) how any legal rights he may have are at stake in this matter. This is also not evident from the records themselves. There is no basis on the material before me on which to conclude that s. 22(2)(c) applies in this case. I find that it is not relevant here.

[11] No other relevant circumstances are reflected in the material before me that would favour disclosure of the severed information. The applicant has the burden of proof in this manner and has failed to discharge that burden. I find that s. 22(1) applies and requires the APD to refuse disclosure of the severed information.

4.0 CONCLUSION

[12] For the reasons given above, under s. 58 of the Act, I require the APD to refuse the applicant access to the severed information under s. 22(1) of the Act.

December 14, 2005

ORIGINAL SIGNED BY

Celia Francis
Adjudicator

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³ pp. 1-2, initial submission