ALBERTA

OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER

ORDER F2010-028

May 30, 2011

ALBERTA CHILDREN AND YOUTH SERVICES

Case File Number F4841

Office URL: www.oipc.ab.ca

Summary: The Applicant requested her personal information from Alberta Children and Youth Services ("the Public Body") for the time that she had, as a child, been in the custodial care of the Public Body. The Public Body responded, providing the Applicant with severed copies of the Applicant's file. The Applicant requested a review of the adequacy of the Public Body's search for responsive records and its use of section 17 of the *Freedom of Information and Protection of Privacy Act* ("the Act or the FOIP Act") to sever information from the records.

The Adjudicator found that the Public Body did not perform an adequate search for responsive records because it did not search for records from the group home and shelter the Applicant had resided in and that she had mentioned in her access request.

The Adjudicator also found that the information severed from the records was third party personal information. However, she held that the disclosure of personal information of the Applicant's foster parents, care givers, and other professionals who were acting in their representative or official capacities would not be an unreasonable invasion of these third parties' personal privacy and ought to be disclosed.

Statutes Cited: AB: *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 1(n), 10, 17, 71(2), and 72; *Child, Youth and Family Enhancement Act* R.S.A. 2000 c. C-12, ss. 74.1, and 74.2.

Authorities Cited: AB: Orders 96-008, 2001-016, F2007-003, F2007-029, F2009-016, F2009-038, and F2009-043.

I. BACKGROUND

[para 1] Pursuant to the *Freedom of Information and Protection of Privacy Act* ("the Act"), on October 27, 2008, the Applicant wrote to the Public Body and requested, "all possible files" relating to her while she was in the custody of the Public Body.

[para 2] The Applicant went on to give a brief explanation of her history with the Public Body from the time that she was taken from her mother's care as an infant to when she was adopted. She included the name of a group home and a shelter at which she had lived for some time, her birth name, date of birth, and where she was born. In addition she provided her adopted name but stated, "[r]ecords from Alberta, will no doubt be under my old name of [the Applicant's birth name]." She also indicated that she had already located and spoken to her birth parents so there was no need to "...protect them or any 'original' birth information." Finally, the Applicant stated, "…I require the copies of all my physical records/files while in care of Alberta Social Services, NOT an overview or 'Background' given to adoptees, but my complete FILE while in custodial care during the times mentioned." [emphasis in the original]

[para 3] On November 19, 2008, the Public Body wrote to the Applicant, extending its timeline for completing her request and providing a fee estimate for completing her request.

[para 4] As the result of its search, the Public Body located 288 pages of records responsive to the Applicant's request. It severed some of the information in these records pursuant to section 17 of the Act and released the remaining information to the Applicant.

[para 5] Upon receipt of the records from the Public Body, the Applicant requested that the Office of the Information and Privacy Commissioner ("this office") review the Public Body's response to her request and whether the Public Body had performed an adequate search for responsive records.

[para 6] The Commissioner authorized a portfolio officer to investigate and attempt to resolve this matter but this was unsuccessful, and the Applicant requested an inquiry. Both the Applicant and Public Body provided initial and rebuttal submissions. As well, I requested and received further submissions from the parties regarding the possible applicability of other statutes to the information requested.

II. RECORDS AT ISSUE

[para 7] The information at issue consists of the severed portions of the 288 pages of responsive records that were released to the Applicant by the Public Body.

III. ISSUES

[para 8] The Notice of Inquiry for this matter lists the issues for this inquiry as follows:

Issue A:

Did the Public Body meets its duty to the Applicant as provided by sections 10(1) (duty to assist) of the Act? Specifically, did the Public Body conduct an adequate search for responsive records?

Issue B:

Does section 17 of the Act (disclosure harmful to personal privacy) apply to the records/information?

IV. DISCUSSION OF ISSUES

A: Did the Public Body meets its duty to the Applicant as provided by sections 10(1) (duty to assist) of the Act? Specifically, did the Public Body conduct an adequate search for responsive records?

[para 9] Section 10(1) of the Act states:

> *10(1) The head of a public body must make every reasonable effort to assist applicants and to respond to each applicant openly, accurately and completely.*
>
> *(2) The head of a public body must create a record for an applicant if*
>
> > *(a) the record can be created from a record that is in electronic form and in the custody or under the control of the public body, using its normal computer hardware and software and technical expertise, and*
> >
> > *(b) creating the record would not unreasonably interfere with the operations of the public body.*

[para 10] The Public Body bears the onus to establish that it made every reasonable effort to assist the Applicant. Assisting the Applicant includes performing an adequate search for responsive records. In Order 2001-016 the Commissioner stated:

> An adequate search has two components: (1) every reasonable effort must be made to search for the actual record requested and (2) the applicant must be informed in a timely fashion about what has been done.

[para 11] In Order F2007-029 the Commissioner described evidence that public bodies ought to provide to meet their burden. He stated:

In general, evidence as to the adequacy of a search should cover the following points:

- The specific steps taken by the Public Body to identify and locate records responsive to the Applicant's access request

- The scope of the search conducted - for example: physical sites, program areas, specific databases, off-site storage areas, etc.

- The steps taken to identify and locate all possible repositories of records relevant to the access request: keyword searches, records retention and disposition schedules, etc.

- Who did the search

- Why the Public Body believes no more responsive records exist than what has been found or produced

[para 12] The Public Body argued that it performed an adequate search based on the search criteria provided by the Applicant (the Applicant's birth name, adoptive name, and birth date).

[para 13] In support of its position, the Public Body provided two affidavits from individuals who received the Applicant's request and searched for responsive records. The evidence given in the affidavits were the steps taken to identify and locate the records and repositories, the scope of the search, and who did the search. However, it was not explained either in the Public Body's submissions or its affidavits why the group home and shelter mentioned by the Applicant in her request were not searched. It may be that those records were consolidated in the records searched, or that the records were not in the custody and control of the Public Body. However, without more information or explanation about these search criteria, I cannot find that the Public Body performed an adequate search.

[para 14] The Applicant also argued that there were records missing from the responsive records. She recalls a telephone conversation with an employee of the Public Body in 1990 in which the employee mentioned that there were three large binders of material relating to the Applicant. I note, though, that 288 pages of responsive records might constitute three large binders and that "large" is a relative term. As well, the Applicant points out specific records which appear to be missing, including the following: intervention records dealing with a particular foster family, a letter of June 10, 1974, two home studies, a fifth grade photograph, and an application dated May 24, 1974.

[para 15] Apparently, during the course of mediation the Applicant requested, through the portfolio officer, that the Public Body search other names the Applicant may have been called in her childhood. This new search may reveal some of the information the Applicant believes was missing from the initial responsive records. However, these are not the same search criteria given to the Public Body initially, and constitute a separate access request, which is not at issue

in this inquiry; therefore, I will not comment on the adequacy of search relative to this second request.

[para 16] I acknowledge that some of the records that the Applicant believes are missing may require different search criteria, while others (the intervention records dealing with a particular foster family) may not exist. Given the Applicant's search criteria and the evidence provided by the Public Body, I find that the Public Body did not make every reasonable effort to perform an adequate search for the records in that it did not search for records from the group home and shelter mentioned by the Applicant in her access request. Nor did it explain, as it might alternatively have done if the facts supported such an explanation, that they were included in the repositories searched or why such other repositories could not be searched.

B: Does section 17 of the Act (disclosure harmful to personal privacy) apply to the records/information?

[para 17] Section 17(1) of the Act states that a Public Body must refuse to disclose a third party's personal information if the disclosure of that information would be an unreasonable invasion of the third party's personal privacy. This is a mandatory provision and not one which may be applied at the discretion of a public body. Therefore, it is a provision which this office can independently review to ensure that it was applied correctly.

[para 18] The Applicant's primary argument regarding the information that was severed is that she already knows the information; therefore, the disclosure cannot be an unreasonable invasion of the third parties' personal privacy. While this may be a factor to consider under section 17(5) of the Act (which I will discuss below), this is not a determining factor in this case. This office has found in several prior orders that the fact an applicant knows information does not necessarily warrant disclosing the information to an applicant (see Order 96-008).

[para 19] I gather that the Public Body determined that the responsive records contained third party personal information, as defined in section 1(n) of the Act, and that sections 17(4)(g) or 17(4)(h) of Act apply to this information, creating a presumption that the disclosure of these third parties' personal information would be an unreasonable invasion of their personal privacy.

[para 20] As well, the Public Body argued that the Applicant has failed to meet her burden under section 71(2) of the Act which states:

> *71(2) Despite subsection (1), if the record or part of the record that the applicant is refused access to contains personal information about a third party, it is up to the applicant to prove that disclosure of the information would not be an unreasonable invasion of the third party's personal privacy.*

i. Did the records contain personal information about a third party?

[para 21] The relevant portions of section 1(n) of the Act state:

1(n) "personal information" means recorded information about an identifiable individual, including

(i) the individual's name, home or business address or home or business telephone number,

(ii) the individual's race, national or ethnic origin, colour or religious or political beliefs or associations,

(iii) the individual's age, sex, marital status or family status,

…

(vi) information about the individual's health and health care history, including information about a physical or mental disability,

(vii) information about the individual's educational, financial, employment or criminal history, including criminal records where a pardon has been given,

…

(ix) the individual's personal views or opinions, except if they are about someone else;

[para 22] I have reviewed an unsevered copy of the responsive records. Based on my review, I find that the severed portions of the records are the personal information of third parties as defined in section 1(n) of the Act.

[para 23] According to the Applicant, there are several categories of information that the Public Body has severed pursuant to section 17 of the Act – the Applicant's birth/adoptive parents' information, foster family information (though, as I will explain more fully below, some of this information relating to the foster families is not personal information), and information of various care givers, professionals (such as teachers) and other individuals (such as friends of the Applicant). I will examine each category individually.

ii. Information about the Applicant's birth/adoptive parents:

[para 24] The Applicant argued that she knows her adoptive parent, has already met her birth parents (and her birth family), and her birth mother is recently deceased and therefore, it would not be an unreasonable invasion of their personal privacy to disclose their personal information. For the reasons I will discuss more fully below, this is not a determinative argument. However, in her submissions, the Applicant also mentioned her entitlement to certain information about her birth parents pursuant to various provincial acts.

[para 25] Section 17(2)(c) of the Act states:

> *17(2) A disclosure of personal information is not an unreasonable invasion of a third party's personal privacy if*
> *…*
> *(c) an Act of Alberta or Canada authorizes or requires the disclosure,*
> *…*

[para 26] As the Applicant did not fully elaborate on this point and the Public Body did not make any submissions regarding section 17(2)(c) of the Act as it relates to any applicable statutes in this province, I asked for further submissions from the parties on this point.

[para 27] The Applicant cited section 74.2 of the *Child, Youth and Family Enhancement Act* ("CYFEA"). Section 74.1 of the CYFEA and relevant portions of section 74.2 of the CYFEA state:

> *74.1(1) The clerk of the Court must seal all documents possessed by the Court that relate to an adoption, and those documents are not available for inspection by any person except on order of the Court or with the consent in writing of the Minister.*
>
> *(2) Despite the Freedom of Information and Protection of Privacy Act, the Minister must seal adoption orders, all documents required by section 63 of this Act to be filed in support of adoption applications, adopted children's original registrations of birth and other documents required to be sealed by the regulations that are in the possession of the Minister, and they are not available for inspection by any person except on order of the Court or pursuant to this Division.*
>
> *74.2(1) In this section,*

(a) "adopted person" means a person who is adopted under an adoption order made prior to January 1, 2005;

(b) "parent" means a biological parent and an adoptive parent under a previous adoption order.

(2) Subject to subsection (3), on receiving a written request from an adopted person who is 18 years of age or older, a descendant of a deceased adopted person or a parent of an adopted person, the Minister may release to the person making the request the information in the orders, registrations and documents sealed under section 74.1(2) other than personal information about an individual who is neither the adopted person nor a parent of the adopted person.

(3) The Minister shall not accept a request under subsection (2) from a parent of an adopted person unless the adopted person is 18 years and 6 months of age or older.

(4) Despite subsection (2), if an adopted person who is 18 years of age or older or a parent of the adopted person has, prior to the date of the request under subsection (2), registered with the Minister a veto in a form satisfactory to the Minister prohibiting the release of personal information in the orders, registrations and documents sealed under section 74.1(2), the Minister shall not release the personal information unless the veto is revoked.

…

(6) A veto registered under subsection (4) is revoked when the person who registered the veto is deceased.

…

(8) Despite subsection (2), if the Minister receives proof, satisfactory to the Minister, that all the parents of an adopted person are deceased, the Minister may release to the adopted person or a descendant of the adopted person all the personal information in the orders, registrations and documents sealed under section 74.1(2), including personal information about individuals who are neither the adopted person nor a parent.

(9) Despite subsection (2), if the Minister is satisfied, based on information provided to the Minister by the adoptive parents, that

(a) the adopted person who is 18 years of age or older is not

aware of the adoption, and

(b) the release of the personal information would be extremely detrimental to the adopted person,

the Minister may deem that a veto has been registered under subsection (4) by that adopted person, in which case the Minister shall not release the personal information in the orders, registrations and documents sealed under section 74.1(2).

(10) A deemed veto under subsection (9) is revoked on the request of an adopted person who is 18 years of age or older.

[para 28] The Applicant argued there was no veto filed by her birth parents and therefore, she qualifies under this section of the CYFEA to receive certain information about her birth parents.

[para 29] The Applicant also cited the Public Body's website which lists some of the information the Applicant could receive on application under the CYFEA. This information includes:

- Names of the birth parent(s)
- Birth dates of the birth parent(s)
- Place of birth of the birth parent(s)
- Province of birth of the birth parent(s)
- Marital status of the birth parent(s)
- Occupation of the birth parent(s)
- Education level of the birth parent(s)
- Physical description of the birth parent(s)
- Personality and interests of the birth parent(s) and
- Medical history of the family

[para 30] The Public Body confirmed that the CYFEA is the only act in Alberta that deals with adoption records. It submitted that the CYFEA does not have any applicability because "…the information in the records requested does not form part of the individual's sealed adoption record." Subsequent to this submission of the Public Body, I asked the Public Body to clarify if there was a sealed adoption record. It confirmed that there was not because the Applicant was not adopted in Alberta.

[para 31] The Applicant confirmed that her adoption record was in the custody of the Saskatchewan government because she was adopted there, and that she has been given access to this information by that government. However, as the Public Body has the vast majority of information about the Applicant because she was raised in Alberta, she requested information from the Public Body. She argues that by disclosing her adoption record to her, the Saskatchewan government has given the Public Body permission to disclose her birth parents information to her. She cites section 74.2 of the CYFEA as authority.

[para 32] The Applicant fails to recognize that the CYFEA applies to adoption records that are in the custody and control of this province. Given that there is not a sealed adoption record in Alberta, I find that the provisions of the CYFEA on which the Applicant relies are not applicable in this inquiry. As well, the Saskatchewan government's decision to disclose the Applicant's adoption record is not determinative of whether the Public Body is permitted or required to disclose the Applicant's parents' personal information to her, in accordance with the Act. While that decision means that she now knows the information, as discussed below, her existing knowledge is not a factor determinative of whether the information should be released.

[para 33] I also note that although the Applicant's birth mother is now deceased, she has not been deceased for 25 years or more; therefore, section 17(2)(i) of the Act does not apply. Section 17(2)(i) of the Act states:

> *17(2) A disclosure of personal information is not an unreasonable invasion of a third party's personal privacy if*
> *...*
> *(i) the personal information is about an individual who has been dead for 25 years or more,*
> *...*

[para 34] On my review of the records at issue, I believe that section 17(4)(g) and 17(4)(h) of the Act apply to the personal information of the Applicant's birth and adoptive parents. Those sections state:

> *17(4) A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy if*
> *...*
> *(g) the personal information consists of the third party's name when*
>
> *(i) it appears with other personal information about the third party, or*
>
> *(ii) the disclosure of the name itself would reveal personal information about the third party,*
> *or*
>
> *(h) the personal information indicates the third party's racial or ethnic origin or religious or political beliefs or associations.*

[para 35] Therefore, there is a presumption that the disclosure of the Applicant's birth and adoptive parent's personal information would be an unreasonable invasion of their personal privacy. However, the Public Body must still take into consideration section 17(5) and all relevant factors to determine if the disclosure of the a third parties' personal information would be an unreasonable invasion of his or her personal privacy. Section 17(5) of the Act states:

17(5) In determining under subsections (1) and (4) 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

(a) the disclosure is desirable for the purpose of subjecting the activities of the Government of Alberta or a public body to public scrutiny,

(b) the disclosure is likely to promote public health and safety or the protection of the environment,

(c) the personal information is relevant to a fair determination of the applicant's rights,

(d) the disclosure will assist in researching or validating the claims, disputes or grievances of aboriginal people,

(e) the third party will be exposed unfairly to financial or other harm,

(f) the personal information has been supplied in confidence,

(g) the personal information is likely to be inaccurate or unreliable,

(h) the disclosure may unfairly damage the reputation of any person referred to in the record requested by the applicant, and

(i) the personal information was originally provided by the applicant.

[para 36] On my review of the records at issue, I find that none of these factors weigh in favour of disclosing the personal information of the Applicant's birth and adoptive parents.

[para 37] The Applicant argues that another relevant consideration is that she knows the personal information of her birth and adoptive parents and therefore disclosure of this information cannot be an unreasonable invasion of their personal privacy. This office has previously found that there is a difference between an Applicant knowing the personal information of a third party and having a right of access to the information under the Act. In Order 96-008 the Commissioner stated:

> In British Columbia, the Information and Privacy Commissioner rejected an argument that the Applicant should receive records because the Applicant

> knew "the subject of the material as well as the persons connected with this incident." (see British Columbia Order 83-1996). The Commissioner stated that there is a difference between knowing the subject matter or the names of parties and having a right under the legislation to obtain access to the information given by those parties. I also reject the Applicant's argument under section 16(1) and (2)(g) on the ground that there is a difference between knowing a third party's personal information and having the right of access to that personal information under the Act.

[para 38] In Order F2007-003, the Adjudicator made some further observations on the significance of the Applicant's prior knowledge of information that was being requested. She noted that whether this fact should be taken into account or not depends in part on the extent to which the information is already widely known, rather than being known only or primarily to the Applicant. In the former case, there is less of a concern that the Applicant to whom information is disclosed will further invade the privacy of the persons who are the subject of the information by further disseminating the information in the form in which it is found in the records. However, where the information in question is known to the Applicant but not to a wider public, this further threat to privacy remains (See Order F2007-003 at paras 10 to 15).

[para 39] In saying this, I acknowledge that it may seem contrary to common sense to withhold information from the Applicant such as the names of her birth and adoptive parents, particularly as this is also, in part, her own personal information. However, in this case, records have already been disclosed to the Applicant which contain third parties' personal information but sever the names of the persons whose information it is. Thus, disclosing the names in the context of the records would have the effect of associating the names with other documented personal information of these people. It is this association, with the associated potential for further dissemination, which I find to be an unreasonable invasion of their personal privacy.

[para 40] In this inquiry, the information that was withheld by the Public Body was personal information of third parties known to the Applicant and not to the general public. Therefore, I believe that the principle applies that a further threat to privacy remains because once the information is disclosed to the Applicant there is no requirement that the Applicant keep it confidential. Thus, I find that the Applicant's prior knowledge of the information is not a relevant factor weighing in favour of disclosure in this case.

[para 41] Finally, the Applicant argues that, "I am also a registered/Status Indian and am also entitled to said information. In order for me to registered as Status Indian I needed my birth parent's names and the pertinent information."

[para 42] It is my understanding that the Saskatchewan government provided the Applicant with this information when it unsealed her adoption record and I am unclear as to how this argument applies to the information in the custody and control of the Public Body. The Applicant did not elaborate further on this point.

[para 43] Therefore, I find that the Public Body properly withheld the personal information of the Applicant's birth and adoptive parents.

iii. Foster Family information:

[para 44] Throughout her childhood, the Applicant lived with various foster families. Most of the information of the members of these families has been severed from the responsive records.

[para 45] The Applicant argues that she lived with these third parties and knows the information that was severed from the records, and that since she already knows this information, it cannot be an unreasonable invasion of their personal privacy to disclose this information. Again, for the reasons mentioned above in paragraph 38, this does not determine the question.

[para 46] Based on the information provided to me, none of the circumstances in section 17(2) of the Act apply. However, the following portions of section 17(4) of the Act apply, variously, to all of the information severed from the responsive records relating to the Applicant's former foster families:

> *17(4) A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy if*
>
> > *(a) the personal information relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation,*
> > *…*
> >
> > *(d) the personal information relates to employment or educational history,*
> > *…*
> >
> > *(g) the personal information consists of the third party's name when*
> >
> > > *(i) it appears with other personal information about the third party, or*
> > >
> > > *(ii) the disclosure of the name itself would reveal personal information about the third party,*
> >
> > *…*
> >
> > *(h) the personal information indicates the third party's racial or ethnic origin or religious or political beliefs or associations*

[para 47] If a third party's personal information falls under section 17(4) of the Act, there is a presumption that disclosure of that information would be an unreasonable invasion of the third party's personal privacy. However, the Public Body must still examine the relevant circumstances, examples of which are set out in section 17(5) of the Act, to determine if the disclosure of a third party's personal information would be an unreasonable invasion of his or her personal privacy. From my review of the severed information relating to the Applicant's

foster families, the only listed circumstances in section 17(5) of the Act that may be applicable are:

> *17(5) In determining under subsections (1) and (4) 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*
>
> *...*
>
> *(f) the personal information has been supplied in confidence,*
>
> *...*

[para 48] There is nothing on the face of the records that explicitly states that the information severed from the records was supplied by the third parties in confidence. However, I can infer that the information was supplied in confidence where the situations in which the information was supplied suggest it (see Order F2009-043 at para 48). Given the sensitivity of the information severed, I believe that it is reasonable to assume that some of the information that was severed (such as the third party's opinions about the Applicant) was supplied in confidence. However, given the fact that information was supplied to a government agency by foster parents, I do not believe that the circumstances in which the information was provided would indicate that the information was provided in confidence. I will discuss this relationship in greater detail below.

[para 49] Another factor to consider in this inquiry was explained in Order F2009-016, in which the Adjudicator set out the following principles, based on earlier orders of this office; relating to the performance of work duties:

> Where personal information of third parties exists as a consequence of their activities as staff performing their duties, or as a function of their employment, this is a relevant circumstance weighing in favour of disclosure under section 17(5) of the Act (Order F2003-005 at para. 96; Order F2004-015 at para. 96). It has also been stated that records of the performance of work responsibilities by an individual is not, generally speaking, personal information about that individual, as there is no personal dimension (Order F2004-026 at para 108; Order F2006-030 at para. 10; Order F2007-021 at para. 97). Absent a personal aspect, there is no reason to treat the records of the acts of individuals conducting the business of a public body as "about them" (Order F2006-030 at para. 12). Further, where a name (which constitutes personal information) appears only with the fact that an individual was discharging a work-related responsibility (which is not personal information), the presumption against disclosure under section 17(4)(g) (name plus personal information) does not apply (Order F2004-026 at para. 117).

[para 50] It is my understanding from reviewing the records and submissions of the parties that the Applicant's foster parents were compensated or reimbursed (though to what extent is not clear to me), and regulated by the Public Body. The responsive records reveal that when the Applicant was in foster care, the foster parents were regularly contacted by the Public Body or they themselves contacted the Public Body to report on the progress and any problems they were encountering with the Applicant. I believe that there is a parallel between the foster parents' performing their duties as foster parents, and an employee or agency relationship. While there

may also be some information in the records that record their performance of their duties that has a personal dimension for the foster parents, I find that this parallel to employment or agency is a factor that weighs in favour of disclosing the foster parents' work product (that is, the content of their comments to and conversations with the Public Body) during the time when they were acting in their role fostering the Applicant.

[para 51] As well, several orders of this office have held that the disclosure of personal information relating to individuals acting in a formal representative capacity, such as names, titles and business contact information, is not an unreasonable invasion of personal privacy (see Order F2009-038 at para 46). This information is distinct from "work product" mentioned above because it is personal information as defined in section 1(n) of the Act. However, due the nature of the information, the fact that it is personal information of a third party acting in his or her formal, representative capacity, pursuant to section 17(5) of the Act, it may not be an unreasonable invasion of a third party's personal privacy to disclose it.

[para 52] Although undoubtedly many foster parents take on the responsibility of being a foster parent for personal reasons rather than for the compensation, nevertheless, I find that when acting as foster parents, these individuals are acting in their formal, representative capacity. Thus, this factor weighs in favour of disclosing the names and contact information of the Applicant's foster parents, during the time when they were acting in their capacity as her foster parents. However, this factor does not weigh in favour of disclosing the personal information of other members of the foster families (such as other children in the home) who were not acting as foster parents to the Applicant.

[para 53] Weighing all the factors I have discussed, I find that the Public Body ought to have disclosed the names, contact information, and work product (which would include the content of the conversations the foster parents had with the Public Body about the Applicant) to the Applicant during the time that these third parties were acting as the Applicant's foster parents. I do not find that the factors mentioned above weigh in favour of disclosing the personal information of members of the foster families who were not acting as foster parents. This includes the personal information of other children in the foster families. Therefore, I find that the Public Body was correct in severing these other third parties' personal information.

iv. Information of care givers, professionals and other individuals:

[para 54] It appears as though the Public Body also thought that section 17(4)(g) and 17(5)(f) of the Act applied to the personal information of the care givers and other professionals that it severed from the responsive records. The Public Body disclosed the content of this group's opinions about the Applicant, but severed their names. I agree that section 17(4)(g) of the Act applies, and creates a presumption that disclosing the personal information of these third parties would be an unreasonable invasion of their personal privacy. To the extent that section 17(5)(f) of the Act (information supplied in confidence) would apply, I agree that this would be a factor that weighs in favour of not disclosing these third parties' personal information. However, I see nothing in the records that leads me to believe that information provided to the Public Body by these third parties was supplied in confidence.

[para 55] However, as above, there are factors under section 17(5) of the Act which are not enumerated which weigh in favour of disclosure in this case. This includes that fact that these third parties were acting in their official or representative capacities. Therefore, the release of their personal information would not be an unreasonable invasion of their privacy.

[para 56] This group includes the care givers at the shelter and group home at which the Applicant resided, as well as teachers who taught the Applicant and reported to the Public Body on her progress. However, this group does not include other third parties that came into contact with the Applicant in their personal capacities, such as friends of the Applicant or other adults who assisted the Applicant of their own volition and not because they were being paid to do so. I am thinking specifically of a family that took an interest in the Applicant after meeting her at a church function. As noted above, the fact that the Applicant already knows (or thinks she knows) the names of these other individuals is not a factor that weighs sufficiently in favour of disclosure.

[para 57] Therefore, I find that the Public Body ought to disclose to the Applicant the information of the Applicant's care givers and professionals, such as her teachers, as they were acting in their representative capacities and there are no factors under section 17(5) of the Act that weigh in favour of severing the information.

[para 58] I also find that the Public Body was correct in severing the personal information of friends and other individuals who came into contact with the Applicant who were acting in their personal capacities, as the disclosure of this information would be an unreasonable invasion of these third parties' personal privacy.

V. ORDER

[para 59] I make this Order under section 72 of the Act.

[para 60] I find that the Public Body properly severed third party personal information of the Applicant's birth parents and adoptive parents pursuant to section 17 of the Act.

[para 61] I find that the Public Body improperly severed third party personal information and work product of the Applicant's foster parents (while they were acting as her foster parents), care givers and any other individuals who came into contact with the Applicant in their professional capacities. I order the Public Body to disclose this information to the Applicant.

[para 62] I confirm that the Public Body properly severed the third party personal information of other members of the Applicant's foster families (other than the foster parents), friends of the Applicant, and other individuals who came into contact with the Applicant in their personal capacities.

[para 63] I further order the Public Body to notify me in writing, within 50 days of being given a copy of this Order, that it has complied with the Order.

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Keri H. Ridley
Adjudicator