

## ACCESS TO INFORMATION

Application by applicant under *Access to Information Act*, R.S.C., 1985, c. A-1 (Act), s. 42(1)(a) seeking order directing RCMP to disclose unredacted record to requester for access — RCMP receiving request for access to records regarding, *inter alia*, Sig Sauer P226 firearm serial numbers previously issued to RCMP 'E' Division Emergency Response Team — RCMP creating chart listing information regarding those firearms, including serial numbers — Determining that release of firearm serial numbers resulting in disclosure of "personal information" within definition of *Privacy Act*, R.S.C., 1985, c. P-21, s. 3 — Therefore refusing to disclose serial numbers under Act, s. 19(1), to exercise discretion under s. 19(2) — Releasing chart to requester with serial numbers of firearms redacted — Requester filing complaint with applicant Information Commissioner pursuant to Act, s. 30(1)(a) — Applicant concluding complaint well-founded, finding RCMP not establishing that serial numbers constituting personal information — Reporting those findings to RCMP, recommending disclosure of serial numbers — RCMP not adopting recommendation, maintaining view that serial numbers personal information associated with identifying information in Canadian Firearms Information System database, noting importance of broad approach to definition of "personal information" — Whether firearm serial numbers at issue "personal information" within meaning of *Privacy Act*, s. 3, thus, exempt from disclosure under Act, s. 19(1); if so, whether RCMP reasonably exercising discretion set out in Act, s. 19(2) in refusing to disclose information — Serial numbers not "personal information" within meaning of *Privacy Act*, s. 3, not exempt from disclosure under Act, s. 19(1) — Firearm serial numbers at issue not inherently personal, neither identifying individual nor revealing information about identifiable individual — Primarily constituting information "about an object" rather than "about an identifiable individual" — While numbers assigned to objects qualitatively different from those assigned to individuals, number assigned to individual inherently "personal", exempt from disclosure — Serial numbers at issue assigned to particular firearms rather than to individuals — Whether serial numbers falling within general definition of "personal information" by being "about an identifiable individual" — Parties disagreeing, in particular, regarding what should be considered "available information" for assessing whether information at issue, in combination with other available information, could identify individual — Information kept confidential in hands of government institution cannot be considered "available" for purposes of analysis — Purpose of s. 19(1) to avoid disclosing personal information to requesters, not to avoid "disclosing" it to government institution already having it — If information were to be considered personal information simply because government institution could use it to identify individual, this would capture, exempt from disclosure wide variety of impersonal information — Fact that individuals may be able to identify themselves from released information not making that information "personal information" — *Privacy Act*, Act, s. 19(1) preventing undue disclosure of one's personal information to others, not to oneself — That "available information" going beyond what is in hands of "informed and knowledgeable member of the public" consistent with *Gordon v. Canada (Health)*, 2008 FC 258, *Canada (Information Commissioner) v. Canada (Canadian Transportation Accident Investigation and Safety Board)*, 2006 FCA 157 — Assessment of whether serious possibility that individual identified depending on particular facts, type of information at issue, context information appearing in records, nature of other available information — Evidence not showing serious possibility that serial numbers could be used, alone or in combination with other available information, to fraudulently obtain personal information from private businesses or Sig Sauer — Because information in question not personal, Act, s. 19(2) not coming into play — However, with respect to s. 19(2)(c), RCMP's analysis appearing to be limited to bald statements containing no grounds for conclusion reached — Where decision

maker providing no grounds for having exercised discretion, reviewing court effectively prevented from assessing whether decision reasonable — Neither reasons nor record providing any indication as to why or how RCMP reaching its conclusion regarding public interest — Explanation given for decision on exercise of discretion under Act, s. 19(2)(c), *Privacy Act*, s. 8(2)(m)(i) not having to be extensive or detailed — However, exercise of discretion requiring sufficiently “transparent and intelligible” explanation — RCMP not meeting that standard — Thus, firearm serial numbers ordered released without redaction to requester.

CANADA (INFORMATION COMMISSIONER) V. CANADA (PUBLIC SAFETY AND EMERGENCY PREPAREDNESS) (T-1682-18, 2019 FC 1279, McHaffie J., reasons for judgment dated October 9, 2019, 35 p.)