Information and Privacy Commissioner,
Ontario, Canada

Commissaire à l'information et à la protection de la vie privée,
Ontario, Canada

ORDER PO-3203

Appeal PA12-123

Ministry of Community Safety and Correctional Services

May 28, 2013

Summary: An individual sought access to information about an OPP investigation into an incident and allegations against her. The ministry granted partial access to the responsive records, relying on section 49(a), in conjunction with section 14(1)(l), as well as section 49(b), together with sections 21(3)(b) and 21(2)f), to deny access to the withheld information. During the inquiry, the appellant removed certain personal information of other individuals from the scope of the appeal. In this order, the adjudicator finds that section 49(a) does not apply, but partly upholds the ministry's decision under section 49(b). The adjudicator orders disclosure of the appellant's own personal information to her, as well as certain withheld portions that do not qualify for exemption.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended, sections 2(1) (definition of "personal information"), 14(1)(l), 21(2)(f), 21(3)(b), 49(a) and 49(b).

Orders and Investigation Reports Considered: Order PO-2916

OVERVIEW:

[1] This order addresses an individual's request under the *Freedom of Information and Protection of Privacy Act* (the *Act*) to the Ministry of Community Safety and Correctional Services (the ministry) for records relating to an incident that, as far as the

requester knew, took place "seven years ago." Allegations against her arising from the incident had been investigated by the Ontario Provincial Police (OPP), but she had not been notified or charged. As the matter had recently caused her difficulty in securing employment, she wished to find out the specific details of it.

[2] Based on the information she provided, the ministry located three records, which were responsive to the request, and granted partial access to them. In withholding portions of the records, the ministry claimed that disclosure of the withheld information would constitute an unjustified invasion of personal privacy under section 49(b), together with the presumption in section 21(3)(b) (law enforcement investigation) and the factor in section 21(2)(f) (highly sensitive). The ministry also relied on section 49(a), taken in conjunction with the law enforcement provisions in sections 14(1)(l) (hamper control of crime) and 14(2)(a) (law enforcement report). Finally, the ministry indicated that some of the information severed from the records is not responsive to the request.

[3] The appellant appealed the ministry's decision to this office and a mediator was assigned to explore resolution of the appeal.[1] The appellant takes issue with the information withheld by the ministry pursuant to the exemption claims, as well as the severances of "non-responsive" information. The mediator attempted to contact the individual who had initiated the complaint to determine whether this individual was prepared to consent to disclosure of the information relating to them; however, the efforts to contact this individual were unsuccessful.

[4] As a mediated resolution was not possible, the appeal was transferred to the adjudication stage of the process, in which an adjudicator conducts an inquiry under the *Act*. The adjudicator formerly assigned to adjudicate the appeal started her inquiry by seeking representations from the ministry. The ministry provided representations on the issues, and advised that it was no longer relying on section 14(2)(a) of the *Act* as a basis for denying access to the records.

[5] Next, the adjudicator provided a copy of the ministry's representations to the appellant, along with a modified Notice of Inquiry, seeking representations. The appellant submitted representations in response. In the representations, the appellant advised that because she was only interested in the "substantive allegations made against her," she did not seek access to the "names, addresses, phone numbers, dates of birth" of other individuals. The removal of this information from the scope of the appeal is addressed in the order, below.

[1] Throughout the appeal, the appellant was represented by legal counsel, who provided submissions on her behalf. For ease of reference, the appellant and her lawyer are referred to interchangeably as "the appellant" in this order.

[6] The adjudicator decided that the ministry ought to be provided with an opportunity to reply to the appellant's representations and sent a copy of them to the ministry for this purpose. At this point, I assumed the conduct of this inquiry as the adjudicator formerly assigned to it was not available to continue. The ministry sought – and I granted – an extension to the due date for the submission of reply representations. However, the ministry ultimately did not provide reply representations, and I moved the appeal to the order stage.

[7] In this order, I partly uphold the ministry's decision to withhold certain information as non-responsive. I find that section 49(a) and the law enforcement exemption in section 14(1)(l) do not apply. Although section 49(b) applies to brief portions of the records, I find that the disclosure of the appellant's own personal information to her cannot result in an unjustified invasion of another individual's personal privacy under section 49(b). I order the records disclosed to the appellant, excepting the personal information of other individuals that was removed from the scope of the appeal or is exempt under section 49(b).

RECORDS:

[8] The three records at issue consist of an Occurrence Summary (page 1), a General Occurrence Report (pages 2 and 3), and a Supplementary Occurrence Report (page 4).

ISSUES:

A. Has information that is responsive to the request been withheld as "non-responsive?"

B. Do the records contain "personal information?"

C. Would disclosure facilitate the commission of an unlawful act or hamper the control of crime under section 49(a) with section 14(1)(l)?

D. Would disclosure result in an unjustified invasion of personal privacy under section 49(b)?

E. Should the ministry's exercise of discretion be upheld?

DISCUSSION:

A. Has information that is responsive to the request been withheld as "non-responsive?"

[9] The appellant takes issue with the severances made to the records in the name of responsiveness. Section 24 of the *Act* imposes certain obligations on requesters and institutions when submitting and responding to requests for access to records. This section states, in part:

> (1) A person seeking access to a record shall,
>
> (a) make a request in writing to the institution that the person believes has custody or control of the record;
>
> (b) provide sufficient detail to enable an experienced employee of the institution, upon a reasonable effort, to identify the record;
>
> . . .
>
> (2) If the request does not sufficiently describe the record sought, the institution shall inform the applicant of the defect and shall offer assistance in reformulating the request so as to comply with subsection (1).

[10] Institutions should adopt a liberal interpretation of a request, in order to best serve the purpose and spirit of the *Act*. Generally, ambiguity in the request should be resolved in the requester's favour.[2] To be considered responsive to the request, records must "reasonably relate" to the request.[3]

[11] The ministry was invited to comment on the scope of the request and responsiveness of the records, but does not directly address the non-responsive severances in its representations. Rather, the ministry simply submits that the request contained sufficient detail, including an incident number, to permit ministry staff to identify "all responsive records." The ministry's decision letter had advised the appellant that "some information, such as computer generated text associated with the printing of the report has been removed from the records."

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[2] Orders P-134 and P-880.
[3] Orders P-880 and PO-2661.

[12] As stated, the appellant challenges the ministry's severances, apparently because large portions of the records were withheld for other reasons in addition to responsiveness. In this context, it appears that the appellant is not satisfied that the ministry has appropriately withheld information as not responsive to the request.

[13] With regard for the framing of the request, I agree with the ministry that it was sufficiently detailed to permit the locating of records reasonably related to the incident and complaint of concern to the appellant. Therefore, I am satisfied that the ministry's interpretation of the request was reasonable.

[14] Furthermore, based on my review of the records that the ministry identified as responsive based on the request, I am also satisfied that the information withheld by the ministry as "non-responsive" is, in fact, not responsive to the request, for the most part, with the exception of a few brief lines of text on page 1. However, I am satisfied that the other non-responsive severances have been properly made for merely administrative details regarding the printing of the records, lines that are found at the top and bottom of each of the four pages. Devoid of substantive content as these lines are, I find that this information is not reasonably related, or responsive, to the request.

[15] In addition, I am mindful of the clarification provided by the appellant that her primary interest is in learning the substance of the allegations made against her. In this context, I find that certain information severed from the main body of page 1 is also not responsive to the request, in that it merely contains police patrol zone information or other non-substantive or administrative detail that is unrelated to the allegations or subject matter of the Occurrence Summary.[4]

[16] I will now review the ministry's exemption claims with respect to the responsive information remaining at issue in this appeal.

B. Do the records contain "personal information?"

[17] In order to determine if sections 49(a) or 49(b) apply, together with the law enforcement and personal privacy exemptions claimed by the ministry, I must first decide whether the records contain "personal information" and, if so, to whom it relates. That term is defined in section 2(1) of the *Act* as follows:

> "personal information" means recorded information about an identifiable individual, including,

[4] The ministry's representations indicate that it severed "police codes on page 1 of the records, in light of a body of jurisprudence which has upheld past Ministry decisions to withhold these codes." Given my conclusion that the severed police codes are not responsive to the appellant's clarified request, I will not review the application of section 14(1)(l) to this information. However, for past IPC decision upholding section 14(1)(l) to police codes, see Orders PO-2409, PO-2700 and MO-2795.

> (a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual,
>
> (b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,
>
> (c) any identifying number, symbol or other particular assigned to the individual,
>
> (d) the address, telephone number, fingerprints or blood type of the individual,
>
> (e) the personal opinions or views of the individual except if they relate to another individual,
>
> (f) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence,
>
> (g) the views or opinions of another individual about the individual, and
>
> (h) the individual's name where it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual;

[18] The list of examples of personal information under section 2(1) is not exhaustive; information that does not fall under paragraphs (a) to (h) may still qualify as personal information.[5]

[19] Section 2(3) also relate to the definition of personal information and is relevant in this appeal. This section provides that:

> Personal information does not include the name, title, contact information or designation of an individual that identifies the individual in a business, professional or official capacity.

[5] Order 11.

[20] To qualify as personal information, the information must be about the individual in a personal capacity, and it must be reasonable to expect that an individual may be identified if the information is disclosed.[6] Even if information relates to an individual in a professional, official or business capacity, it may still qualify as personal information if the information reveals something of a personal nature about the individual.[7]

[21] The ministry argues that the appellant wants access to "third party personal information belonging to affected third parties." The ministry submits that the records contain the personal information of the complainant, including her name, address, phone number, date of birth and her statement to the OPP. According to the ministry,

> This sort of personal information is what police typically gather when they record their involvement in an incident such as this one. As a result of the kind of personal information at issue, the ministry submits that it is reasonable to expect that disclosure of the records could identify an individual.
>
> … [D]ue to the nature of the involvement of the OPP and the CAS [Children's Aid Society] in the investigation, the information about affected individuals is inherently of a personal nature.

[22] As previously noted, the appellant responded to the ministry's representations by clarifying that she was not interested in obtaining access to the names, addresses, phone numbers or dates of birth of other individuals.

Analysis and findings

[23] Under section 2(1) of the *Act*, "personal information" is defined, in part, to mean recorded information about an identifiable individual, including the individual's name where it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual.

[24] I have reviewed the records at issue, and I find that all four pages contain the personal information of the appellant. Specifically, I find that they contain the appellant's personal information in the form of her age, employment status, address, and telephone number, the views or opinions of other individuals about her, and her name along with other personal information relating to her, as contemplated by paragraphs (a), (b), (d), (g) and (h) of the definition of personal information in section 2(1).

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[6] Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.).
[7] Orders P-1409, R-980015, PO-2225 and MO-2344.

[25] In addition, I find that the records contain the personal information of other identifiable individuals according to the definition in section 2(1) of the *Act*. This information includes names, addresses, phone numbers, ages, birth dates, views or opinions and names together with other information of a personal nature, for the purpose of paragraphs (a), (b), (d), (e) and (h) of the definition. However, as I have already stated, the appellant removed the names, addresses, phone numbers, birthdates and, presumably, ages, of these other identifiable individuals from the scope of the appeal. Accordingly, the only personal information of other individuals remaining at issue are brief portions on pages 3 and 4 that fit within paragraphs (a) and (h) of the definition in section 2(1) of the *Act.*

[26] All four pages of the records also contain information related to individuals in their employment capacities. The ministry was asked in the initial Notice of Inquiry to "confirm whether the records contain the personal information of the two CAS workers identified in the records." Although this question was not directly answered, the ministry appears to be arguing that "the nature of the involvement of the OPP and the CAS in the investigation" makes the information about "affected individuals" their personal information. I disagree. For the most part, with the exception of a portion of one sentence on page 4 that I found above constitutes "personal information," I find that all references to CAS employees constitute their professional information under section 2(3) of the *Act.* Since this information cannot qualify for exemption under section 49(b), I will only review whether it qualifies for exemption under section 49(a).

C. Would disclosure facilitate the commission of an unlawful act or hamper the control of crime under section 49(a) with section 14(1)(l)?

[27] Section 47(1) of the *Act* gives individuals a general right of access to their own personal information held by a government body. Section 49 provides a number of exceptions to this general right of access.

[28] Under section 49(a) of the *Act*, the institution has the discretion to deny access to an individual's own personal information in instances where certain exemptions would otherwise apply to that information. However, section 49(a) recognizes the special nature of requests for one's own personal information and the desire of the legislature to give institutions the power to grant requesters access to their personal information.[8]

[29] One of the exemptions listed in section 49(a) is the law enforcement exemption in section 14 of the *Act.* In this appeal, the ministry claims that section 14(1)(l) applies to the withheld information on all four pages of the records. Section 14(1)(l) states:

[8] Order M-352.

> A head may refuse to disclose a record if the disclosure could reasonably be expected to,
>
> > facilitate the commission of an unlawful act or hamper the control of crime.

[30] Section 14(1)(l) contains the words "could reasonably be expected to", and the ministry is therefore required to provide "detailed and convincing" evidence to establish a "reasonable expectation of harm." Evidence amounting to speculation of possible harm is not sufficient.[9]

Representations

[31] Remarking that the records at issue in this appeal involve the CAS, the ministry seeks to rely on the importance of police collaboration with the CAS "to fight child abuse" in support of its section 14(1)(l) exemption claim. The ministry submits that this office "has recognized that [the] Ontario CAS meet[s] the definition of 'law enforcement' when carrying out the provisions of the [*Child and Family Services Act*]." The ministry submits that if the records in this appeal are disclosed,

> [the local] CAS and other CAS elsewhere in the province could be expected to cease to provide information to the OPP and other police services, or to at least censor that which is provided, which would impede both law enforcement and CAS investigations involving the protection of children.

[32] The ministry also refers to recommendations resulting from the *Inquiry into Pediatric Forensic Pathology in Ontario* (the Goudge Inquiry) regarding the importance of a "team approach" and information sharing between the CAS and police "when suspicious child deaths occur." The ministry submits that the CAS-police team approach to combatting child abuse is "not likely to be successful if police cannot guarantee the same level of protection to records they receive from the CAS as those held by the CAS." Here, the ministry refers to the fact that the *Freedom of Information and Protection of Privacy Act* does not apply to the CAS.

[33] The appellant submits that the ministry's position is based on conjecture and speculation, with "absolutely no evidence" to support the contentions of harm to law enforcement activities that may result from disclosure of the information at issue. The appellant argues that the ministry's reliance on the Goudge Inquiry recommendation is "taken entirely out of context" since there is no connection between the circumstances of the creation of these particular records and a "suspicious child death." Noting that

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[9] Order PO-2037, upheld on judicial review in *Ontario (Attorney General) v. Ontario (Information and Privacy Commissioner)*, [2003] O.J. No. 2182 (Div. Ct.), *Ontario (Workers' Compensation Board) v. Ontario (Assistant Information and Privacy Commissioner)* (1998), 41 O.R. (3d) 464 (C.A.).

the records at issue are not CAS records, but rather police records resulting from the OPP investigation, the appellant disputes the ministry's argument that disclosure of the information could hamper the necessary collaboration between police and the CAS "if police cannot guarantee the same level of protection to records."

Analysis and findings

[34] I agree with the appellant that the ministry's arguments respecting the application of section 14(1)(l) to the information at issue in this appeal amount to no more than mere speculation. In particular, I find that I have not been provided with the requisite "detailed and convincing" evidence to establish that disclosing the severed responsive information could reasonably be expected to render the ministry's law enforcement activities vulnerable to interference of the kind contemplated by the exemption at section 14(1)(l) of the *Act*. Therefore, I reject the ministry's position that disclosure of this particular information could facilitate the commission of an unlawful act or hamper the control of crime. Accordingly, I find that section 14(1)(l) does not apply and that the withheld information is not exempt under section 49(a).

[35] I will now consider whether the personal information relating to other individuals still at issue in this appeal qualifies for exemption under section 49(b).

D. Would disclosure result in an unjustified invasion of personal privacy under section 49(b)?

[36] As noted above, section 47(1) of the *Act* gives individuals a general right of access to their own personal information held by an institution, subject to a number of exceptions to this general right of access.

[37] One such exception is section 49(b) which gives the ministry discretion to deny access if disclosure would constitute an unjustified invasion of another individual's personal privacy. Section 49(b) can only apply if the record contains the *personal* information of another identifiable individual, as well as the appellant. Further, if the information falls within the scope of section 49(b), that does not end the matter because the ministry is still obliged to exercise its discretion in deciding whether to disclose the information by weighing the requester's right of access to the requester's own personal information against the other individual's right to protection of his or her privacy.

[38] Sections 21(1) to (4) provide guidance in determining whether the unjustified invasion of personal privacy threshold is met. In this appeal, the ministry relies on sections 21(3)(b) and 21(2)(f), which state, respectively:

> (3) A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy where the personal information,

> (b) 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;
>
> (2) A head, in determining whether a disclosure of personal information constitutes an unjustified invasion of personal privacy, shall consider all the relevant circumstances, including whether,
>
> (f) the personal information is highly sensitive;

[39] If any of paragraphs (a) to (h) of section 21(3) apply, disclosure of the information is presumed to be an unjustified invasion of personal privacy under section 49(b). However, in *Grant v. Cropley*,[10] the Divisional Court commented on the discretionary nature of the presumption when reviewed under section 49(b), stating that the Commissioner could:

> . . . consider the criteria mentioned in s.21(3)(b) in determining, under s.49(b), whether disclosure . . . would constitute an unjustified invasion of [a third party's] personal privacy.

Representations

[40] The ministry submits that the release of the records would "presumptively constitute" an unjustified invasion of personal privacy because the information was collected by the OPP as a result of an incident involving an alleged assault. The ministry states that even though criminal charges were never laid, "they could have been, if the OPP had determined that there was sufficient evidence to lay charges." For this reason, the ministry submits that the information qualifies for exemption under section 49(b), with reference to the presumption in section 21(3)(b), as the information was compiled as part of an investigation into a possible violation of law. The ministry adds that the fact that the records also allude to a CAS investigation supports the position regarding the application of section 21(3)(b), since past orders of this office have found the CAS's activities to meet the definition of "law enforcement."

[41] The ministry also submits that the withheld information is "highly sensitive" as contemplated by section 21(2)(f), because:

- The records were created in a law enforcement context, arising from an eyewitness account to an alleged assault;

[10] [2001] O.J. 749.

- The affected parties have not consented, and are likely not aware that their personal information is subject to disclosure;

- CAS records are not subject to disclosure under the *Act* and the public would not expect such records to be disclosed, even if related records were in the custody of the OPP; and

- Given the public's privacy expectations respecting CAS investigations, "any subsequent disclosure without their prior knowledge could be expected to cause distress."

[42] Regarding the relevance of the absurd result principle in this appeal, the ministry submits that it does not apply in favour of disclosure because the appellant is not aware of the withheld information and she did not provide it. Rather, the ministry asserts that "it would be an absurd result *to disclose* the records" because it would "lead to an outcome that [the *Act*] was enacted to prevent in the first place, namely the breach of third party privacy, as well as the disclosure of records about a CAS investigation, when the CAS is expressly not subject to [the *Act*]." The ministry contends that it would be absurd if an individual "could access records in the custody or control of the OPP when those same records or substantially similar records cannot be accessed if they were in the custody or control of the CAS."

[43] The appellant maintains that it must be the case that the OPP did not lay charges due to the "extremely poor quality and reliability" of the evidence, arguing that it was wrong that this same evidence was provided to the CAS, but not to the appellant herself. The appellant submits that the records are not CAS investigation records, and that "it is abundantly clear that all of the investigation contained in the police records was done by the police." The appellant maintains that in this situation where allegations of a very serious nature have been made, but not disclosed to the individual who is subject to those allegations, the public would be shocked because "a person has the right to know the allegations against her and the case which she needs to meet."

[44] With regard to the factor in section 21(2)(h), the appellant submits that it is the allegations against her that are "highly sensitive," rather than the other way around, as regards the effect of disclosure on the complainant or the ministry itself. The appellant argues that accepting the ministry's contention that the records should not be given to the appellant could "create the situation where a person could give false information to the police knowing that records of the nature here will be created and that the giver of the information … [will] escape being called to account."

[45] The appellant reiterates that it is not CAS records that are in the custody of the OPP, but rather OPP records in the custody of the OPP that resulted from an OPP investigation. Regarding the ministry's position on "absurd result," the appellant suggests that what is "absurd" is that the ministry is declining to provide the appellant

with information relating to the allegations made against her. The appellant concludes by stating:

> The appellant, who has never been interviewed by the OPP and who appear [un]interested in hearing from her are able to keep secret this sensitive information knowing that the appellant is thereby precluded from setting the record straight.

Analysis and findings

[46] I concluded, above, that pages 1 to 4 of the records contain the personal information of the appellant, while pages 3 and 4 also contain the personal information of other identifiable individuals. Consequently, my review of section 49(b), together with sections 21(3)(b) and 21(2)(f), is conducted only in relation to the personal information of other individuals on pages 3 and 4. The disclosure of the appellant's own personal information to her cannot result in an unjustified invasion of another individual's personal privacy and, as stated, section 49(b) does not apply to "professional" information.

[47] Past orders have established that the presumption in section 21(3)(b) may still apply even if no criminal proceedings were commenced against any individual. The presumption only requires that there be an investigation into a possible violation of law.[11] Based on the content of the records, it is clear that the undisclosed – and responsive – personal information of individuals other than the appellant on pages 3 and 4 was compiled by the police and is identifiable as part of an investigation of a possible violation of the law. I find that this personal information fits within the ambit of the presumption in section 21(3)(b).

[48] In order to bring personal information within the ambit of the factor in section 21(2)(f) of the *Act*, I must be satisfied by the evidence that disclosure of the information would result in "a reasonable expectation of 'significant' personal distress" to the subject individual.[12] There is merit to the ministry's argument that the personal information at issue is inherently highly sensitive due to the context in which it was gathered. On my view of the information that actually remains at issue, I am satisfied that disclosure of the limited personal information of others that remains at issue may be distressing and that it therefore attracts the application of the factor in section 21(2)(f). Accordingly, I find that the section 21(2)(f) factor weighs against disclosure of the personal information of individuals other than the appellant on pages 3 and 4.

[49] Given the appellant's numerous references to the desire and need to know the "case against her," I will address the unlisted factor in section 21(2) related to "adequate degree of disclosure." As discussed in decisions such as Order PO-2916, this

[11] Orders P-242 and MO-2235.
[12] Orders PO-2518, PO-2617, MO-2262 and MO-2344.

unlisted factor owes its existence, in part, to the preamble to section 21(2) of the *Act* requiring consideration of "all the relevant circumstances." The unlisted factor for "adequate degree of disclosure" flows naturally from the purposes section of the *Act*, which provides that individuals should have a right of access to their own personal information. This factor addresses the requirement of "fairness of administrative processes, and the need for a degree of disclosure to the parties which is consistent with the principles of natural justice."[13] I mention this factor because, in my view, this appeal presents circumstances in which the consideration may well have been found to apply to the personal information of other identifiable individuals. However, with regard for the *specific* personal information relating to the affected parties remaining at issue on pages 3 and 4, I conclude that it does not serve to elaborate on the nature of the allegations against the appellant or the investigation conducted into those allegations. Therefore, I find that disclosure of the personal information at issue does not warrant the application of the unlisted factor in section 21(2) for "adequate degree of disclosure."

[50] Accordingly, given the application of the presumption against disclosure in section 14(3)(b) and the factor favouring privacy protection in section 21(2)(f) to the limited personal information still at issue on pages 3 and 4, I conclude that its disclosure would constitute an unjustified invasion of the personal privacy of those individuals, and I find that it is exempt under section 49(b). Further, based on the nature of the limited information for which I have upheld the application of section 49(b), I also find that the absurd result principle does not apply to that information.

E. Should the ministry's exercise of discretion be upheld?

[51] In situations where an institution has the discretion under the *Act* to disclose information even though it may qualify for exemption, this office may review the institution's decision to exercise its discretion to deny access. In this situation, this office may determine whether the institution erred in exercising its discretion, and whether it considered irrelevant factors or failed to consider relevant ones. The adjudicator, in reviewing the exercise of discretion by an institution may not, however, substitute her own discretion for that of the institution.

[52] As previously noted, section 49(b) is a discretionary exemption, and I have upheld the ministry's decision to apply it to deny access to brief portions of pages 3 and 4. I must review the ministry's exercise of discretion in doing so. To be clear, my review of the ministry's exercise of discretion is limited to the information that I have not otherwise ordered disclosed pursuant to this order.

[13] Order P-1014.

[53] The ministry submits that it properly exercised its discretion and that "many of the responsive records were disclosed to the appellant, especially those containing her own personal information." According to the ministry, it considered the following factors in withholding information: the public policy interest in protecting the privacy of third parties, including children; the concern that disclosure would jeopardize joint police-CAS initiatives to combat child abuse; and the concern that disclosure of the records would result in the public no longer disclosing information to the police for fear that it would be subsequently released.

[54] The appellant's representations allude to a sympathetic and compelling need to receive the information to provide her with adequate information to understand the nature of the allegations made, but never disclosed to her. The appellant disputes the ministry's assertion that the information already disclosed provides the appellant with any basis to know the case against her.

[55] Based on my own review of the limited personal information of other individuals for which I have upheld the ministry's access decision under section 49(b), and particularly considering the disclosure the appellant will receive pursuant to this order, I am satisfied that the ministry did not exercise its discretion improperly. Accordingly, I will not interfere with the ministry's exercise of discretion on appeal.

ORDER:

1. I order the ministry to disclose the non-exempt responsive portions of the records to the appellant by **July 3, 2013** but not before **June 27, 2013**.

   The personal information of other individual that is to be withheld pursuant to section 49(b) is highlighted in orange on the copy of the records sent to the ministry with this order. The ministry's copy of the records will also contain yellowed highlighted information to indicate the non-responsive information and the information removed from the scope of the appeal by the appellant. This latter information should also not be disclosed.

2. To verify compliance with this provision, I reserve the right to require the ministry to provide me with a copy of the records disclosed to the appellant.

Original Signed by: May 28, 2013
Daphne Loukidelis
Adjudicator