

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER MO-3011

Appeal MA12-130

Belleville Police Services Board

February 18, 2014

Summary: The Belleville Police Services Board received a request for records relating to the requester, specifically, records containing information released by the police to a named individual, an agent of the Office of the Children's Lawyer. The police granted partial access to the responsive records, denying access to portions of them pursuant to the exemptions at sections 38(a) (discretion to refuse a requester's own information), read in conjunction with the law enforcement exemptions at sections 8(1)(c) (investigative techniques) and 8(2)(a) (law enforcement report), and section 38(b) (personal privacy), read in conjunction with section 14(3)(b) (investigation into a possible violation of law), of the *Act*. The requester appealed the police's decision. During mediation, the issue of the reasonableness of the police's search was included in the appeal. In this order, the adjudicator finds that the records contain the personal information of the appellant and other identifiable individuals, that the discretionary exemption at section 38(b) applies to all of the information at issue and that the police's exercise of discretion to deny access to portions of the records pursuant to that exemption was reasonable. Also, the adjudicator finds that the police conducted a reasonable search for records responsive to the request. As a result the adjudicator upholds the police's decision and dismisses the appeal.

Statutes Considered: *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, ss. 2(1) (definition of "personal information"), 8(1)(c), 8(2)(a), 14(1)(f), 14(2)(d), (f), (h), and (i), 14(3)(a) and (b) and 38(a) and (b).

OVERVIEW:

[1] The Belleville Police Services Board (the police) received a request under the *Municipal Freedom of Information of Privacy Act* (the *Act*) for access to information about the requester. The requester subsequently clarified that he sought access to information released by the police to a named individual, an agent of the Office of the Children's Lawyer.

[2] The police located a number of responsive records and granted partial access to them. Access was denied to portions of the records pursuant to section 38(a) (discretion to refuse a requester's own information), read in conjunction with the law enforcement exemptions at sections 8(1)(c) (investigative techniques) and 8(2)(a) (law enforcement report), and section 38(b) (personal privacy), read in conjunction with section 14(3)(b) (investigation into a possible violation of law) of the *Act*.

[3] The requester, now the appellant, appealed the police's decision.

[4] During mediation, the appellant advised that he believes that additional records responsive to his request must exist. Specifically, he states that records related to a named officer should exist. As a result, the police conducted an additional search and confirmed that no additional records could be located.

[5] The appellant continues to believe that additional records should exist. As a result, the reasonableness of the police's search is at issue in this appeal. The appellant is also of the view that he should be granted access to the portions of the records that have been withheld. Accordingly, the police's application of the exemptions is also at issue.

[6] As further mediation was not possible, the file was transferred to the adjudication stage of the appeal process for an inquiry. I began my inquiry into this appeal by sending a Notice of Inquiry setting out the facts and issues to the police, who provided representations. I shared the police's representations with the appellant, who then provided representations in response.

[7] In this order, I uphold the police's decision to deny access to portions of the responsive records. In the discussion that follows, I reach the following conclusions:

- the police conducted a reasonable search for responsive records;
- the records at issue contain the "personal information" of both the appellant and other identifiable individuals within the meaning of the definition of that term at section 2(1) of the *Act*;

- the discretionary exemption at section 38(b) of the *Act* applies to the information at issue; and
- the police's exercise of discretion to deny access to portions of the records was reasonable.

RECORDS:

[8] The records that remain at issue consist of general occurrence reports, occurrence summaries, supplementary occurrence reports, and one victim report.

ISSUES:

- A. Did the police conduct a reasonable search for records?
- B. Do the records contain "personal information" as defined in section 2(1) of the *Act*, and if so, to whom does it relate?
- C. Does the discretionary exemption at section 38(b) of the *Act* apply to the information at issue?
- D. Does the discretionary exemption at section 38(a) of the *Act*, read in conjunction with the law enforcement exemptions at sections 8(1)(c) and/or 8(2)(a) apply to the information at issue?
- E. Did the police properly exercise their discretion under sections 38(b)? If so, should this office uphold their exercise of discretion?

DISCUSSION:

A. Did the police conduct a reasonable search for records?

[9] Where a requester claims that additional records exist beyond those identified by the institution, the issue to be decided is whether the institution has conducted a reasonable search for records as required by section 17.¹ If I am satisfied that the search carried out was reasonable in the circumstances, I will uphold the institution's decision. If I am not satisfied, I may order further searches.

¹ Orders P-85, P-221 and PO-1954-I.

[10] Although a requester will rarely be in a position to indicate precisely which records that the institution has not identified, the requester still must provide a reasonable basis for concluding that such records exist.²

[11] The *Act* does not require the institution to prove with absolute certainty that further records *do not* exist. However, the institution must provide sufficient evidence to show that it has made a reasonable effort to identify and locate responsive records.³

[12] A reasonable search is one in which an experienced employee knowledgeable in the subject matter of the request expends a reasonable effort to locate records which are reasonably related to the request.⁴

[13] A further search will be ordered if the institution does not provide sufficient evidence to demonstrate that it has made a reasonable effort to identify and locate all of the responsive records within its custody or control.⁵

Representations

[14] The appellant takes the position that additional records responsive to the request should exist. As noted above, during mediation the appellant advised that he believes that records related to a named officer should exist. As a result, the police conducted an additional search and confirmed that no additional records could be located. Despite the additional search conducted by the police, the appellant continues to believe that additional records should exist.

[15] In their representations, the police submit that they spoke with the appellant on two occasions to attempt to identify the specific records that he was seeking and it was ascertained that the appellant wished to access records found within the "Records Management System" (RMS) that referred to him by name. The police explain that a member of the Information Services Unit with 20 years of experience searched the RMS for responsive records. The police enclosed a signed statement from that individual indicating that they included all responsive records and that, to their knowledge, no information was withheld or excluded in any way. The police submit that all responsive records were printed and disclosed to the appellant with their decision letter.

² Order MO-2246.

³ Orders P-624 and PO-2559.

⁴ Orders M-909, PO-2469, PO-2592.

⁵ Order MO-2185.

[16] The police also submit that because no Crown Brief was ever prepared by the police in relation to the appellant, there is no additional location where information about him might be stored. They state: "There is no other area in which to search within the Belleville Police Service, other than the RMS."

[17] The police explain:

The appellant stated during a phone conversation that the appellant believed the Belleville Police Service had CPIC information involving the appellant. The General Occurrence Report [identified report number] states that [named police officer] did conduct a CPIC check on the appellant and quotes from that document into the report. It is common for police to run all parties in a complaint on CPIC. The CPIC can be viewed either on the computer screen or printed out. If the document is printed out and does not become part of a Crown Brief, which this clearly did not, it would then be shredded. CPIC documents are not scanned into general occurrence reports by the Belleville Police Service. CPIC documents belong to the RCMP. It was explained to the appellant a number of times that there would not be a hardcopy of the CPIC from which [named police officer] quoted into his report.

The same [named police officer] also mentions in the same [identified report number] a summary of incidents which occurred in Metro Toronto which involved this person. The appellant may believe the Belleville Police Service has these reports or documents from the Metro Toronto Police Services, it does not. It is not entirely clear which reports or documents the appellant believes were withheld; again, there are no other repositories of information outside of the RMS for this type of information. The document was not scanned into the incident. The Belleville Police Service does not have any reports from the Metro Toronto Police Service in the appellant's name.

The same Records/FOI employee spoke with [named police officer] inquiring if there was any other information on the appellant and was told there was no further information. The document in question would have been viewed some four years previous to this request.

[18] The appellant's representations do not specifically address the reasonableness of the police's search for responsive records. They also do not identify any specific records that he believes should have been located in the police's search for responsive records. Instead, the appellant's representations describe a number of his concerns relating to a child custody dispute in which he is involved, but do not provide any explanation as to why those comments are linked to any additional records that may or may not exist.

Analysis and finding

[19] On my review of the information before me in this appeal, I accept that the police have provided me with sufficient evidence to demonstrate that they made a reasonable effort to identify and locate records responsive to the appellant's request. I accept that the searches were conducted by an experienced employee who is knowledgeable about records held by the police and that they expended a reasonable effort to locate any responsive records sought by the appellant through his request.

[20] As noted above, although a requester will rarely be in a position to indicate precisely which records that the institution has not identified, the requester still must provide a reasonable basis for concluding that such records exist.⁶ In the circumstances of this appeal, I find that I have not been provided with a reasonable basis for concluding that additional records responsive to the request exist. The appellant has not provided me with sufficient evidence to suggest or demonstrate that specific records responsive to his request should exist.

[21] Additionally, as previously stated, the *Act* does not require the institution to prove with absolute certainty that further records *do not* exist. However, the institution must provide sufficient evidence to show that it has made a reasonable effort to identify and locate responsive records. In the circumstances of the current appeal, I accept that I have been provided with sufficient evidence to show that the police have made a reasonable effort to identify and located records responsive to the appellant's request.

[22] Accordingly, I find that the police have performed a reasonable search for responsive records.

B. Do the records contain "personal information" as defined in section 2(1) of the *Act*, and if so, to whom does it relate?

[23] Under the *Act*, different exemptions may apply depending on whether or not a record contains the personal information of the requester.⁷ Where records contain the requester's own information, access to the records is addressed under Part II of the *Act* and the discretionary exemptions at section 38 may apply. Where the records at issue contain the personal information of individuals other than the appellant but not that of the appellant, access to the records is addressed under Part I of the *Act* and the mandatory exemption at section 14(1) may apply.

⁶ Order MO-2246.

⁷ Order M-352.

[24] In order to determine which sections of the *Act* may apply, it is necessary to decide whether the record contains "personal information" and, if so, to whom it relates. That term is defined in section 2(1) as follows:

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

- (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 if 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;

[25] The list of examples of personal information under section 2(1) is not exhaustive. Therefore, information that does not fall under paragraphs (a) to (h) may still qualify as personal information.⁸

[26] To qualify as personal information, the information must be about the individual in a personal capacity. As a general rule, information associated with an individual in a professional, official or business capacity will not be considered to be “about” the individual.⁹

[27] 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.¹⁰

[28] To qualify as personal information, it must be reasonable to expect that an individual may be identified if the information is disclosed.¹¹

Representations

[29] The police submit that the information that has been severed from the records amounts to the “personal information” of identifiable individuals as that term is defined in section 2(1) of the *Act*. Specifically, they submit that this information falls within paragraphs (a), (d), (e), (g), and (h) of the definition as it includes individuals’ names, dates of birth, addresses, telephone numbers, statements made to police and their views and opinions.

Analysis

[30] Having reviewed the responsive records, I find that they contain the personal information of the appellant, including recorded information about him such as his age and sex (paragraph (a)), criminal or employment history (paragraph (b)), address and telephone number (paragraph (d)), his personal opinion or views (paragraph (e)), and his name, along with other personal information about him (paragraph (h)).

[31] The records also contain the personal information of other identifiable individuals. This information qualifies as their personal information because it consists of information pertaining to their age and sex (paragraph (a)), telephone numbers

⁸ Order 11.

⁹ Orders P-257, P-427, P-1412, P-1621, R-980015, MO-1550-F and PO-2225.

¹⁰ Orders P-1409, R-980015, PO-2225 and MO-2344.

¹¹ Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.).

(paragraph (d)), their personal opinions or views (paragraph (e)), and their name, along with other personal information about them (paragraph (h)).

[32] As described above, given that the records contain both the appellant's personal information, as well as that of other identifiable individuals, Part II of the *Act* applies to the records in their entirety. Therefore, I must consider whether the severed information is exempt from disclosure under the discretionary exemptions at sections 38(a) and (b).

C. Does the discretionary exemption at section 38(b) of the *Act* apply to the information at issue?

[33] Under section 38(b), where a record contains personal information of both the requester and another individual, and disclosure of the information would constitute an "unjustified invasion" of the other individual's personal privacy, the institution may refuse to disclose that information to the requester.

[34] If the information falls within the scope of section 38(b), that does not end the matter. Despite this finding, the institution may exercise its discretion to disclose the information to the requester. This involves a weighing of the requester's right of access to his or her own personal information against the other individual's right to protection of their privacy.

[35] Sections 14(1) to (4) provide guidance in determining whether the unjustified invasion of personal privacy threshold is met. The information at issue in this appeal does not fit within any of paragraphs (a) to (e) of section 14(1).

[36] The factors and presumptions in section 14(2) and (3) help in determining whether disclosure would or would not be an unjustified invasion of privacy under section 14(1)(f). That section reads:

A head shall refuse to disclose personal information to any person other than the individual to whom it relates except,

if the disclosure does not constitute an unjustified invasion of personal privacy.

[37] If any of paragraphs (a) to (c) of section 14(4) apply, disclosure is not an unjustified invasion of personal privacy and the information is not exempt under section 38(b). In this case, paragraphs (a) to (c) of section 14(4) do not apply.

Sections 14(2) and (3)

[38] If any of paragraphs (a) to (h) of section 14(3) apply, disclosure of the information is presumed to be an unjustified invasion of personal privacy.

[39] For records claimed to be exempt under section 14(1) (i.e., records that do not contain the requester's personal information), a presumed unjustified invasion of personal privacy under section 14(3) can only be overcome if a section 14(4) exception or the "public interest override" at section 16 applies.¹²

[40] If the records are not covered by a presumption in section 14(3), section 14(2) lists various factors that may be relevant in determining whether disclosure of the personal information would be an unjustified invasion of personal privacy, and the information will be exempt unless the circumstances favour disclosure.¹³

[41] For records claimed to be exempt under section 38(b) (i.e., records that contain the requester's personal information), this office will consider, and weigh, the factors and presumptions in sections 14(2) and (3) and balance the interests of the parties in determining whether the disclosure of the personal information in the records would be an unjustified invasion of personal privacy.¹⁴

Section 14(3) - presumptions

14(3)(a) – medical history

[42] The police submit that some of the information at issue constitutes medical information belonging to an identifiable individual. Having reviewed the information, I accept that some of the information contained in portions of the records at issue relates to the medical history, diagnosis, condition, treatment or evaluation of an identifiable individual other than the appellant. As a result, I find that the presumption at section 14(3)(a) applies to that information, and its disclosure constitutes a presumed unjustified invasion of that individual's personal privacy under section 38(b).

14(3)(b) – investigation into a violation of law

[43] Even if no criminal proceedings were commenced against any individuals, section 14(3)(b) may still apply. The presumption only requires that there be an investigation

¹² *John Doe v. Ontario (Information and Privacy Commissioner)* (1993), 13 O.R. (3d) 767.

¹³ Order P-239.

¹⁴ Order MO-2954.

into a possible violation of law.¹⁵ The presumption can also apply to records created as part of a law enforcement investigation where charges are subsequently withdrawn.¹⁶

[44] The police submit generally that all of the information at issue was compiled and is identifiable as part of an investigation into possible violations of law. They submit that no criminal charges were laid at the conclusion of the investigations into any of the incidents.

[45] From my review of the records issue, they are clearly records that were compiled by the police in the course of investigations into possible violations of law involving the appellant and other identifiable individuals. The information at issue consists of occurrence reports, occurrence summaries, supplementary reports and a victim report describing a number of incidents and the police's investigations into those incidents. In my view, these records are clearly compiled and are identifiable as part of investigations into possible violations of law. Accordingly, I find that all of the information in the records at issue falls under the ambit of the presumption in section 14(3)(b) of the *Act* and its disclosure constitutes a presumed unjustified invasion of the personal privacy of individuals other than the appellant under section 38(b).

Section 14(2) – factors

[46] Section 14(2) provides some factors for the police to consider in making a determination on whether the disclosure of personal information would result in an unjustified invasion of the affected parties' personal privacy. The list of factors under section 14(2) is not exhaustive. The police must also consider any circumstances that are relevant, even if they are not listed under section 14(2).¹⁷ Some of these criteria weigh in favour of disclosure, while others weigh in favour of privacy protection.

[47] In the circumstances of this appeal, the police raised the possible application of the factors at sections 14(2)(f) and (h). However, on my review of the information at issue, the criteria listed at section 14(2)(d) may also be relevant. Those sections read:

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,

- (d) the information is relevant to a fair determination of rights affecting the person who made the request;

¹⁵ Orders P-242 and MO-2235.

¹⁶ Orders MO-2213, PO-1849 and PO-2608.

¹⁷ Order P-99.

- (f) the personal information is highly sensitive;
- (h) the personal information has been supplied by the individual to whom it relates in confidence;

Section 14(2)(d)

[48] For section 14(2)(d) to apply, the appellant must establish that:

- (1) the right in question is a legal right which is drawn from the concepts of common law or statute law, as opposed to a non-legal right based solely on moral or ethical grounds; and
- (2) the right is related to a proceeding which is either existing or contemplated, not one which has already been completed; and
- (3) the personal information which the appellant is seeking access to has some bearing on or is significant to the determination of the right in question; and
- (4) the personal information is required in order to prepare for the proceeding or to ensure an impartial hearing.¹⁸

[49] Previous orders have established that an appellant must provide sufficient evidence to establish that there is a proceeding that exists or is contemplated in some definite fashion and that is relevant to a fair determination of a right.¹⁹

[50] Additionally, it has previously been held that for the purpose of civil litigation, it may be that the discovery mechanisms available to the requester in that litigation will be sufficient to ensure a fair hearing with the result that section 14(3)(d) does not apply.²⁰

[51] Although the records at issue, as well as the representations submitted by the appellant, indicate that he is or has been involved in a custody dispute that was before the courts, as the appellant has not made submissions on this issue, I have not been provided with sufficient evidence to establish that a proceeding exists or is currently contemplated. Additionally, I do not have sufficient evidence before me to establish that any of the other three elements of the test outlined above have been met. Accordingly,

¹⁸ Order PO-1764; see also Order P-312, upheld on judicial review in *Ontario (Minister of Government Services) v. Ontario (Information and Privacy Commissioner)* (February 11, 1994), Toronto Doc. 839329 (Ont. Div. Ct.).

¹⁹ Order P-443.

²⁰ Order PO-1833.

I find that the criteria at section 14(2)(d) is not a relevant consideration in the circumstances of this appeal.

Section 14(2)(f)

[52] To be considered highly sensitive, there must be a reasonable expectation of significant personal distress if the information is disclosed.²¹ Given the nature of the information that is at issue, I accept that the personal information that has been withheld can be considered to be highly sensitive and that its disclosure could reasonably be expected to result in significant personal distress to the individuals about whom it relates. Accordingly, I find that this factor, weighing against disclosure, is relevant.

Section 14(2)(h)

[53] The factor at section 14(2)(h) weighs in favour of privacy protection. For it to apply, both the individual supplying the information and the recipient had an expectation that the information would be treated confidentially, and that expectation is reasonable in the circumstances. Thus, section 14(2)(h) requires an objective assessment of the reasonableness of any confidentiality expectation.²²

[54] In my view, the context and surrounding circumstances of this matter are such that a reasonable person would expect that the information supplied by these individuals to the police would be subject to a degree of confidentiality. Accordingly, in this appeal, I find that the factor in section 14(2)(h) is a relevant consideration that weighs in favour of protecting the privacy of the other identified parties and withholding their personal information.

Summary

[55] In conclusion, I have found that the presumptions at sections 14(3)(a) and (b) apply to the personal information at issue because it consists of, in part, information that relates to an identifiable individual's medical history, as well as information that was compiled as part of an investigation into a possible violation of law. Accordingly, I find that disclosure of the information at issue is presumed to result in an unjustified invasion of the personal privacy of individuals other than the appellant.

[56] Even if some of the information is not covered by a presumption, there is no evidence to support a conclusion that any of the criteria in section 14(2) which favour disclosure apply in the circumstances. However, I have found that the factors weighing

²¹ Orders PO-2518, PO-2617, MO-2262 and MO-2344.

²² Order PO-1670.

in favour of privacy protection and against disclosure at sections 14(2)(f) and (h) are relevant considerations as the information is highly sensitive and was supplied to the police by the individuals to whom it relates in confidence.

[57] As a result, I find that the disclosure of the information, which amounts to the affected parties' personal information that is present in the records, would constitute an unjustified invasion of personal privacy and the discretionary exemption at section 38(b) applies to the information for which it was claimed. Accordingly, subject to my discussion below on the exercise of discretion, I will uphold the police's decision not to disclose it.

D. Does the discretionary exemption at section 38(a) of the *Act*, read in conjunction with the law enforcement exemption at sections 8(1)(c) and/or 8(2)(a) apply to the information at issue?

[58] As I have found that, subject to my discussion on exercise of discretion below, the discretionary exemption at section 38(b) applies to exempt all of the information at issue from disclosure, it is not necessary for me to determine whether the discretionary exemption at section 38(a) also applies to it.

E. Did the police properly exercise their discretion under sections 38(b)? If so, should this office uphold their exercise of discretion?

[59] The exemption at section 38(b) is discretionary and permits an institution to disclose information despite the fact that it could withhold it. An institution must exercise its discretion. On appeal, this office may determine whether the institution failed to do so.

[60] In this order, I have found that all of the information at issue qualifies for exemption under the discretionary exemption at section 38(b). Consequently, I will assess whether the police exercised their discretion properly in applying that exemption to the portions of the record that have been withheld. As it was not necessary for me to determine whether the discretionary exemption at section 38(a) applied to the information at issue, it is also not necessary for me to review the police's exercise of discretion in applying that exemption.

[61] This office may find that the institution erred in exercising its discretion where, for example:

- it does so in bad faith or for an improper purpose,
- it takes into account irrelevant considerations, or

- it fails to take into account relevant considerations.

[62] In either case, this office may send the matter back to the institution for an exercise of discretion based on proper considerations.²³ This office may not, however, substitute its own discretion for that of the institution.²⁴

[63] Relevant considerations may include those listed below. However, not all those listed will necessarily be relevant, and additional unlisted considerations may be relevant:

- the purposes of the *Act*, including the principles that
 - information should be available to the public
 - individuals should have a right of access to their own personal information
 - exemptions from the right of access should be limited and specific
 - the privacy of individuals should be protected
- the wording of the exemption and the interests it seeks to protect
- whether the requester is seeking his or her own personal information
- whether the requester has a sympathetic or compelling need to receive the information
- whether the requester is an individual or an organization
- the relationship between the requester and any affected persons
- whether disclosure will increase public confidence in the operation of the institution
- the nature of the information and the extent to which it is significant and/or sensitive to the institution, the requester or any affected person

²³ Order MO-1573.

²⁴ Section 43(2) of the *Act*.

- the age of the information
- the historic practice of the institution with respect to similar information.

Representations

[64] The police submit that they exercised their discretion appropriately. They submit that they are “aware that the appellant should have a right of access to the appellant’s own personal information” and that it “endeavoured to respect the spirit of the *Act* at all times where it involved the appellant’s right to access.” However, they also submit that they were “also acutely aware of [their] responsibility to respect the third parties’ right to privacy and deeply believe a balance was struck.”

[65] The police also submit that they exercised their discretion in good faith, for a proper purpose, taking into account all relevant factors. They submit that they considered the circumstances of this case, including the relationship between the appellant and the affected parties, when determining that the affected parties’ information should be withheld.

[66] The police conclude their representations by submitting that “[e]very effort was made ... to provide the appellant with all of his personal information.”

Analysis and finding

[67] As stated above, this office cannot substitute its exercise of discretion for that of the institution. Based on my review of the representations and the record at issue in this appeal I am satisfied that the police properly exercised their discretion to withhold the information at issue in the records under sections 38(b). The police have considered the nature of the information that they have withheld, its sensitivity and importance, the appellant’s interest in this information, as well as the purposes of the *Act*.

[68] I find the police exercised their discretion to apply the exemption at section 38(b) to withhold the personal information relating to the affected parties properly and that their exercise of discretion was made in good faith. The police considered the fact that the disclosure of the personal information relating to identifiable individuals would give rise to a presumed unjustified invasion of their privacy as set out in sections 14(3)(a) and (b) of the *Act*. The police also considered the fact that, in the context of their investigations into the incidents, the personal information is highly sensitive and had been supplied in confidence, which are both factors weighing against disclosure listed in sections 14(2)(f) and (h).

[69] Having reviewed the records closely, I note that the police have disclosed the majority of the information that relates to the appellant but does not contain the personal information of other identifiable individuals. In my view, considering the nature of the information that has been severed, as well as the privacy rights of the identifiable individuals to whom the personal information relates, I accept that the police took proper considerations into account and exercised their discretion under section 38(b) appropriately. Accordingly, I uphold their exercise of discretion as reasonable and find that the information that has been severed under section 38(b) is properly exempt.

ORDER:

I uphold the police's decision and dismiss the appeal.

Original Signed by: _____
Catherine Corban
Adjudicator

_____ February 18, 2013