

Information and Privacy Commissioner,  
Ontario, Canada



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

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## ORDER MO-3518

Appeal MA16-166

Toronto Police Services Board

November 10, 2017

**Summary:** An individual submitted a request under *MFIPPA* for access to records related to parking tickets issued by Toronto Police. The police's initial decision granted partial access to the records, withholding them under section 52(3) (labour relations and employment records), section 38(b) (personal privacy) or on the basis they were not responsive to the request. The individual appealed to this office. During the inquiry, the police withdrew their reliance on section 52(3) and instead partly withheld those records under section 38(b) and as non-responsive. In this order, the adjudicator finds that the records contain the personal information of the appellant and other individuals. She partly upholds the police's decision to withhold information under section 38(b) and due to non-responsiveness, but orders the non-exempt, responsive information disclosed.

**Statutes Considered:** *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, sections 2(1) (definition of "personal information"), 14(3)(b), 17(1), 38(b).

### OVERVIEW:

[1] This order addresses an access decision of the Toronto Police Services Board (the police) in response to a request submitted under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for records related to parking tickets. The request specified "all notes and information" about a named police officer and a specific police file number associated with reviewing matters related to identified parking tickets. This review of the matter by the police came about as a response to a

complaint the individual had filed with the Chief of Police about the parking enforcement matters.

[2] After identifying the responsive records, the police issued a decision to the requester, granting partial access. The police withheld portions of some of the records under the discretionary exemption in section 38(b) (personal privacy). The police withheld the named police officer's notes in full, claiming the application of the exclusion in section 52(3) (employment and labour relations) of the *Act*. The police argued that because the officer's notes formed part of a public complaint file, they were excluded from the *Act*. The police also withheld other information as not responsive to the request.

[3] The requester (now the appellant) appealed the police's decision to this office and a mediator was appointed to explore the possibility of resolution. During mediation, the appellant clarified that he was only seeking the notes taken by the named officer in the course of her investigation into his complaint to the Chief of Police regarding parking tickets. Consequently, only 80 pages and the possible application of section 52(3) to them remained at issue at that point.

[4] It was not possible to achieve a mediated resolution of the appeal and it was moved to the adjudication stage of the appeals process, where an adjudicator conducts an inquiry. The adjudicator provided the police with an opportunity to make representations, initially, by sending out a Notice of Inquiry about section 52(3). In response, the police issued a supplementary decision letter to the appellant, withdrawing the claim to section 52(3) and granting the appellant partial access to the records. The police relied on section 38(b), together with section 14(3)(b) (investigation into possible violation of law) and non-responsiveness in withholding portions of these records. The supplementary decision did not satisfy the appellant because he wanted access to the withheld portions of the records. Next, the adjudicator sought and received supplementary representations from the police on section 38(b). She provided a complete copy of them to the appellant along with a Notice of Inquiry, seeking representations, which she received from him. After the appeal was moved to the order stage, it was transferred to me.

[5] In this order, I find that the records contain the appellant's personal information, as well as the personal information of other individuals. Based on my review of the records, I partly uphold the decision of the police regarding responsiveness and section 38(b), but I order the police to disclose other responsive and non-exempt portions of the records. I also uphold the police's exercise of discretion in relation to the information that is exempt under section 38(b).

## **RECORDS:**

[6] At issue in this appeal are the withheld portions of a police officer's notebooks.

Of the 80 pages at issue, the police withheld information from approximately 45 pages, as identified under each issue, below.

## **ISSUES:**

- A. Have the police properly withheld information as non-responsive?
- B. Do the records contain "personal information" as defined in section 2(1)?
- C. Would disclosure of the records constitute an unjustified invasion of personal privacy under section 38(b)?
- D. Should the police's exercise of discretion under section 38(b) be upheld?

## **DISCUSSION:**

[7] First, I note that the appellant's representations raise issues that are not before me, or which are outside my jurisdiction, in this appeal under *MFIPPA*. Since I have no authority to review parking enforcement or the actions of police officers in relation to that activity, this order does not address the appellant's concerns about parking enforcement, including the issuing of tickets.<sup>1</sup> Therefore, while I have read the appellant's representations in their entirety, in this order, I outline only those parts of them that address the issues that are within my jurisdiction: the application of the personal privacy exemption in section 38(b) and the exercise of discretion by the police in denying access to information in the records under *MFIPPA*.

### **A. Have the police properly withheld information as non-responsive?**

[8] The police withheld portions of the named officer's notebooks on the basis that those portions are not responsive to the request. The appellant disputes the severances made for this reason. The determination of whether the information was properly withheld as non-responsive requires consideration of the scope of the request, as guided by section 17 of *MFIPPA* and past orders of this office.

[9] Section 17 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,

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<sup>1</sup> The appellant's concerns, generally, are that "about 50" tickets were issued to him, that these were mostly "illegal," and that these led to improper vehicle towing and other consequences for him.

(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.<sup>2</sup> To be considered responsive to the request, records or information must "reasonably relate" to the request.<sup>3</sup>

### ***Representations***

[11] The police understood the request as being for the I/CAD<sup>4</sup> Event Details Reports, notes of various Parking Enforcement Officers about specific parking tickets, and the notes and information of a named sergeant in relation to a complaint the appellant filed with the Chief of Police against several Parking Enforcement Officers. The police sought clarification from the appellant upon receipt of the request and, after receiving it, granted access to the records identified as responsive. The police state that the only records remaining at issue are the withheld portions of the sergeant's notes.

[12] The police refer to the explanation given in the access decision that the portions of the records withheld as non-responsive consist of information that does not relate to the appellant's matter. Since police officers "record all significant events" during their shift, there are areas in the books that are neither relevant nor responsive to the request; "any notations that are not specific to the appellant's matter have been removed as non-responsive."

[13] The appellant's submissions do not address the scope issue, apart from the indication that he wants access to all content in the sergeant's notebooks.

### ***Findings***

[14] Claiming that it is not responsive to the request, the police severed information from pages 36, 42, 43, 45-47, 59, 60, 66, 68, 69, 76-80, 82-88, 92-95, 97, 98 and 112-

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<sup>2</sup> Orders P-134 and P-880.

<sup>3</sup> Orders P-880 and PO-2661.

<sup>4</sup> I/CAD stands for Intergraph Computer Aided Dispatch.

117.<sup>5</sup> As I noted above, in determining whether information is reasonably related to a request, past orders affirm that a liberal and generous interpretation is to be given to the exercise, with ambiguity generally being resolved in the requester's favour.<sup>6</sup>

[15] In this appeal, I accept that the police contacted the appellant upon receipt of his request in order to have him provide further details about the listed parking tickets to assist them in identifying responsive records. This led to the identification of approximately 116 pages of records, of which 80 remained at issue by the time of the inquiry.

[16] As for whether the police have properly withheld information as non-responsive, I have reviewed the records at issue and, specifically, the severed information, to assess whether it "reasonably relates" to the request.<sup>7</sup> Based on that review, I uphold the police's decision, in part. First, many of the severances consist merely of the time the sergeant began or ended a certain task. Although such information could be construed as responsive, since it is part of the narrative of her review of the appellant's complaint overall, it is not, in my view, "reasonably related" to the subject matter of the appellant's request in the sense this office usually views the term. Rather, the start and stop times fit in the same category as other information I find to be non-responsive, such as administrative details or other matters attended to by the sergeant. I uphold the severance of these types of information.

[17] However, there are additional, brief portions of the officer's notes that the police withheld as non-responsive, but which are reasonably related to the officer's review of the appellant's complaint and the matters identified in his request. The additional responsive information appears on pages 47, 76, 84, 97 and 112.<sup>8</sup> I will consider whether these additional portions of the records are exempt under section 38(b), along with the other portions withheld by the police on that basis.

[18] Finally, the revised index prepared by the police indicates that information from pages 80 and 88 was withheld as non-responsive, but the pages are not marked to show the relevant portions. Regardless, on my review of pages 80 and 88, I find that none of the information is non-responsive. I do not uphold the police's decision on responsiveness for these pages, and I will review the content under section 38(b) accordingly.

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<sup>5</sup> There is some discrepancy in the page numbering between the police's index of records and the pages themselves, which I have attempted to reconcile.

<sup>6</sup> Orders P-134 and P-880.

<sup>7</sup> Orders P-880 and PO-2661.

<sup>8</sup> On the clean copy of the record provided to this office during the preparation of the order, this page is identified as 111, which does not correspond with the police's own index of records.

**B. Do the records contain “personal information” as defined in section 2(1)?**

[19] Before reviewing the police’s exemption claims, I must first determine if the records contain “personal information” and, if so, to whom it relates. This is because the personal privacy exemption can only apply to “personal information,” which 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,

...

(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;

[20] 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.<sup>9</sup> To qualify as personal information, it must be reasonable to

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<sup>9</sup> Order 11.

expect that an individual may be identified if the information is disclosed.<sup>10</sup>

[21] Sections 2(2.1) and (2.2) also relate to the definition of personal information and state:

(2.1) 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.

(2.2) For greater certainty, subsection (2.1) applies even if an individual carries out business, professional or official responsibilities from their dwelling and the contact information for the individual relates to that dwelling.

[22] 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.<sup>11</sup> 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.<sup>12</sup>

### ***Representations***

[23] The police submit that the records at issue were created in connection to a complaint made by the appellant to the police and they argue that the records contain the personal information of affected parties, including their names, addresses and information about their vehicles. According to the police, these affected parties are identifiable through the information recorded as a result of the sergeant's inquiries.

[24] The appellant's submissions do not address the issue of whether the officer's notes contain personal information.

### ***Analysis and findings***

[25] I have reviewed the records, and I find that they contain the personal information of the appellant and other identifiable individuals. Specifically, I find that the records contain information pertaining to the appellant that qualifies as his personal information within the meaning of paragraphs (a), (b), (d), (e), (g) and (h) of the definition in section 2(1) of the *Act*.

[26] The records also contain the personal information of other identifiable individuals

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<sup>10</sup> Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.).

<sup>11</sup> Orders P-257, P-427, P-1412, P-1621, R-980015, MO-1550-F and PO-2225.

<sup>12</sup> Orders P-1409, R-980015, PO-2225 and MO-2344.

that fits within those same paragraphs of the definition in section 2(1).

[27] Of note is the fact that there is information in the records that is about individuals only in their professional capacity. Where individuals are identified in the performance of their work duties in these records, I find that the information about them does not qualify as personal information pursuant to section 2(2.1) of the *Act*. In several places, the police severed the name and/or contact information of individuals acting in a business capacity, for example, on page 46, the manager of a business<sup>13</sup> and on page 83, a by-law officer. Under the exception in section 2(2.1) of the definition of personal information, this information does not constitute their personal information. In my view, disclosing the names or phone numbers of these individuals would not reveal something of a personal nature about them in the context in which this information appears.<sup>14</sup> Additionally, on page 88 is an address that is associated with a business, not an individual, and I find that this address does not qualify as personal information.

[28] This office has previously found that a license plate number that belongs to an identifiable individual can be considered to be the personal information of that individual because it constitutes "an identifying number ... assigned to the individual" under paragraph (c) of the definition in section 2(1).<sup>15</sup> However, the police have withheld license plate numbers that are clearly associated with businesses, not individuals. None of the plate numbers are related to an identifiable individual and the names and most addresses of these businesses were disclosed. I find that these particular plate numbers do not fit within paragraph (c) of the definition in section 2(1) because they are not assigned to an individual.

[29] The information I have described in the two paragraphs directly above cannot be withheld under the personal privacy exemption in section 38(b) because only *personal* information may be. Accordingly, I will order the information fitting within the exception in section 2(2.1) and the business license plate numbers disclosed.<sup>16</sup>

[30] I now turn to consideration of the application of section 38(b) to the withheld personal information.

**C. Would disclosure of the records constitute an unjustified invasion of personal privacy under section 38(b)?**

[31] The police rely on section 38(b), in conjunction with section 14(3)(b), to deny access to the records, in their entirety.

[32] Under section 38(b), where a record contains personal information of both the

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<sup>13</sup> This same name was disclosed where it appears on other pages, including pages 50 and 52.

<sup>14</sup> See Orders MO-3310 and PO-3655-I.

<sup>15</sup> Orders PO-3742, MO-1173, MO-1314, MO-2108 and MO-3327.

<sup>16</sup> I also briefly touch upon the license plate numbers under the absurd result heading later in this order.



requester and another individual, and disclosure of the information would constitute an “unjustified invasion” of the affected party’s personal privacy, the institution may refuse to disclose that information to the requester. This approach involves a weighing of the requester’s right of access to her own personal information against the other individual’s right to protection of their privacy. Sections 14(1) to (4) are considered in determining whether the unjustified invasion of personal privacy threshold is met. The exceptions in sections 14(1)(a) to (e) are relatively straightforward, but none of them apply in this appeal.

[33] Section 14(2) lists various factors that may be relevant in determining whether disclosure of personal information would constitute an unjustified invasion of personal privacy. Section 14(3) lists the types of information whose disclosure is presumed to constitute an unjustified invasion of personal privacy. Finally, section 14(4) identifies information whose disclosure is not an unjustified invasion of personal privacy.

[34] For records claimed to be exempt under section 38(b), as in this appeal, 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.<sup>17</sup>

### ***Representations***

[35] The police submit that section 14(3)(b) applies because law enforcement investigations, by their nature, require the recording of information relating to unlawful activities, crime prevention activities or activities involving members of the public who need police assistance. The police argue that an important principle of “freedom of information legislation is that personal information held by institutions should be protected from unauthorized disclosure.” The police state that the information at issue was supplied to the investigating police in the course of an investigation into a “possible law enforcement matter,” but they provide no further description of the matter.

[36] According to the police, none of the factors in section 14(2) apply in this situation. However, they argue that the individuals who provided that information did so with an expectation of confidentiality, which suggests the possible application of the factor in section 14(2)(h). The police submit that police investigations “imply an element of trust that the law enforcement agency will act responsibly” in dealing with recorded personal information.

[37] The appellant’s representations do not address the exemption in section 38(b) as the basis for denying him access to portions of the records. As I noted previously, his

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<sup>17</sup> Order MO-2954. This represents a shift away from the previous approach under both sections 38(b) and 14, whereby a finding that a section 14(3) presumption applied could not be rebutted by any combination of factors under section 14(2).

submissions are concerned instead with parking enforcements matters, including the legality (or not) of tickets issued to him, parking signage and the actions of parking enforcement employees in this context. Generally, the appellant's submissions suggest that he is seeking more information about how the sergeant looked into his complaint.

### ***Analysis and findings***

[38] Since my analysis of the withheld personal information is conducted under section 38(b), I must consider and weigh any relevant provisions from section 14(2) and 14(3) to balance the appellant's entitlement to access the withheld personal information against the privacy interests of other identifiable individuals. As stated, the police claim that section 14(3)(b) applies. This section provides that:

A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy if the personal information,

was compiled and is identifiable as part of an investigation into a possible violation of law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation;

[39] Section 14(3)(b) can apply to a variety of investigations.<sup>18</sup> Even if no criminal proceedings were commenced against any individuals, section 14(3)(b) may still apply because this provision only requires that there be an *investigation* into a possible violation of law.<sup>19</sup> More particularly, I note that this office has accepted that the presumption in section 14(3)(b) can apply to investigations that relate to parking by-law enforcement.<sup>20</sup> In this case, however, the records were created as a result of the complaint filed by the appellant with the Chief of Police regarding disputed parking enforcement activities. The assigned police officer reviewed the appellant's complaint. However, whether that review constitutes a law enforcement investigation in the circumstances is not clear from the evidence provided by the police. Although specifically asked in the Notice of Inquiry to "identify the law or legislative provision" relevant to the collection of the personal information, the police did not answer this question. The police merely state that the information was gathered in the course of an investigation without elaborating on the nature of the matter further. Indeed, the submissions do not directly address the circumstances at all. Further, on my review of them, the records themselves do not answer the question of what law may have been investigated.

[40] To support the denial of access to information in the records under section 38(b), together with section 14(3)(b), the police were required to provide sufficient

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<sup>18</sup> Order MO-2147.

<sup>19</sup> Orders P-242 and MO-2235.

<sup>20</sup> See, for example, Orders MO-1295 and MO-2147.

evidence to establish that the claimed exemptions from disclosure apply in this situation. Generic representations that do not directly address the circumstances or the content of the records will not meet the onus. I do not have sufficient evidence to determine that the presumption in section 14(3)(b) applies to the records, and I find that it does not.

[41] My review of the records demonstrates that some of the withheld personal information fits into the presumed invasion of privacy under section 14(3)(h), because it reveals the racial or ethnic origin of an individual other than the appellant. Accordingly, I find that section 14(3)(h) applies to some of the personal information.

[42] As for the factors in section 14(2), the police did not argue that any of the factors favouring privacy protection in sections 14(2)(e)-(i) apply. However, their representations allude to the factor weighing against disclosure in section 14(2)(h), which may apply to personal information supplied in confidence by the individual to whom it relates. I find that this factor applies to some of the personal information provided by individuals other than the appellant.

[43] The appellant also did not specifically identify any of the provisions favouring disclosure at section 14(2)(a) to (d) as relevant. However, his reasons for seeking access to the withheld information are related to learning more about what was done to review the complaint he submitted and these reasons are at least notionally about greater police accountability. In this context, I considered the possible relevance of the public scrutiny factor in section 14(2)(a), which contemplates disclosure in order to subject the activities of the institution (opposed to the views or actions of private individuals) to public scrutiny.<sup>21</sup> However, in order to support a finding that section 14(2)(a) applies to the disclosure of the personal information at issue, there must be evidence that the activities of the police have been called into question *and* that the information sought will contribute materially to the scrutiny of those specific activities. It is not enough that an individual wishes to review the records to try to assure himself that "justice was done in this particular investigation, in which he was personally involved."<sup>22</sup> I do not have evidence that parking enforcement activities have been called into question by the public, generally; nor am I satisfied that the personal information at issue will contribute materially to the scrutiny of those specific activities. Accordingly, I find that section 14(2)(a) does not apply in this appeal.

[44] Having balanced the competing interests of the appellant's right to disclosure of information against the privacy rights of other individuals, I conclude that section 38(b), together with the presumption against disclosure in section 14(3)(h) or the factor in section 14(2)(h), apply to the withheld personal information of other individuals. However, this finding is subject to the discussion of the absurd result principle, below.

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<sup>21</sup> Order P-1134.

<sup>22</sup> Orders P-1014 and MO-3503.

*Absurd result*

[45] According to the absurd result principle, whether or not the factors or circumstances in section 14(2) or the presumptions in section 14(3) apply, where the requester originally supplied the information, or the requester is otherwise aware of it, the information may be found not exempt under sections 14(1) or 38(b), because to find otherwise would be absurd.<sup>23</sup> In this appeal, I have considered the fact that some of the withheld information is clearly within the requester's knowledge because it is information that *he* provided in the complaint he submitted to the Chief of Police.<sup>24</sup> For example, on page 93, the police have withheld some information that was contained in the binder the appellant provided to the Chief. The police withheld other information like this, and in several places, the fact that the information was drawn from the appellant's materials is specifically noted, including corresponding page numbers in his binder. The information includes the names of individuals, and I note a certain inconsistency to the severance of it.<sup>25 26</sup>

[46] Indeed, a fair amount of the content of the records that detail the named sergeant's activities corresponds with, or was in fact driven by, the appellant's input. The police seem to have recognized this fact in deciding to disclose much of what they did. However, in the circumstances, I find that refusing to disclose certain other information of this same type to the appellant would lead to an absurd result, and I will order the police to disclose it. Notably, however, although the appellant may have provided certain personal information to the police, there is information withheld from the records that would reveal the results of inquiries into that information. Where that information is about individuals other than the appellant (and is not about a business),<sup>27</sup> the absurd result principle does not apply and the information remains exempt from disclosure.

[47] In sum, subject to my review of the police's exercise of discretion, I find that the discretionary exemption in section 38(b) applies to some remaining personal information of other individuals in the records, while other personal information must be disclosed according to the application of the absurd result principle. The exempt information is highlighted on the copy of the records sent to the police with this order.

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<sup>23</sup> Orders M-757, MO-1323 and MO-1378.

<sup>24</sup> Orders MO-1196, PO-1679, MO-1755 and PO-2679.

<sup>25</sup> A name the appellant provided is severed from page 46, but not on pages 54 and 62.

<sup>26</sup> The information also included license plate numbers, which I concluded above did not qualify as "personal information." A certain plate number provided by the appellant was severed from pages 44, 46, 74 and 89, but not from page 108 on the copy provided to this office. The revised index shows a claim of 38(b) for this page, although nothing is marked on the page itself. Regardless, the license plate numbers cannot be withheld under section 38(b) because they are not "personal information."

<sup>27</sup> See the discussion of "personal information," above.

**D. Should the exercise of discretion by the police under section 38(b) be upheld?**

[48] Under section 38(b) of the *Act*, the police had the discretion to disclose the withheld information, even if it qualified for exemption. In situations where an institution has the discretion to disclose, I may review the institution's decision to exercise that discretion to deny access. In doing so, I may determine whether the police erred in exercising discretion and whether it considered irrelevant factors or failed to consider relevant ones. I may not, however, substitute my own discretion for that of the institution.

[49] Notably, my review of the police's exercise of discretion is limited to that exercise in relation to the portions of the records that I concluded were exempt under section 38(b).

[50] In the Notice of Inquiry sent to the police, a list of considerations generally viewed as relevant to the exercise of discretion issue was provided to them. Not all of the considerations will necessarily be relevant in any given situation and it is possible that additional unlisted considerations may be relevant.<sup>28</sup>

***Representations***

[51] According to the police, it "scrupulously weighs these factors in each and every access request file," and this is a case where section 38(b) was applied because disclosing the personal information of individuals other than the appellant would result in an unjustified invasion of personal privacy. The police submit that in choosing to prioritize privacy protection over the appellant's right of access, its obligation to safeguard the personal information collected in the course of its activities was considered, as was the "nature of the institution" as a law enforcement body. Here, the police repeat their earlier submissions about the recording of information about activities. The police also rely on Order M-352 in arguing that, even under the discretionary exemption in section 38(b), it would be a "rare case" where the institution would disclose the personal information of an individual other than the requester.

[52] The appellant does not specifically mention the exercise of discretion but, as noted, his representations suggest that he wants access to the information to obtain a better understanding of what the police did after he complained about parking enforcement. He refers to the disclosed portions of the officer's notes as "bits and pieces of this and that [and] I have no idea where she come up with some of these stories..."

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<sup>28</sup> Orders P-344 and MO-1573.

## ***Findings***

[53] With regard for the circumstances of this appeal and the submissions of the parties, I accept that the police properly exercised their discretion in deciding to withhold some of the personal information in the records. The police disclosed – or will be ordered to disclose through this order – the appellant’s own personal information to him as well as other information. Overall, in exercising their discretion under section 38(b) to withhold other personal information that fell under the personal privacy exemption, I find no evidence that the police considered irrelevant factors or failed to consider relevant ones in their exercise of discretion. Accordingly, I uphold the police’s exercise of discretion under section 38(b) with respect to the information that I have found to qualify for exemption under that provision.

## **ORDER:**

1. I uphold, in part, the decision of the police to withhold the personal information of other identifiable individuals under section 38(b) of the *Act*.
2. With this order, I provide copies of the records to the police where I have not upheld the access decision and where it is desirable to clarify the necessary disclosures. On those copies, exempt information is highlighted in orange and is not to be disclosed. Where I have also upheld the severance of non-responsive information on the same page, this information is highlighted in yellow to distinguish it from exempt information.
3. I order the police to disclose to the appellant all withheld responsive and non-exempt portions of the records on pages by **December 18, 2017**, but not before **December 12, 2017**. To verify compliance with this provision, I reserve the right to require the police to provide me with a copy of the records disclosed to the appellant.

Original Signed by: \_\_\_\_\_  
Daphne Loukidelis  
Adjudicator

November 10, 2017 \_\_\_\_\_