Information and Privacy Commissioner,
Ontario, Canada

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

# ORDER MO-3534

Appeal MA16-507

Toronto Police Services Board

November 30, 2017

**Summary:** A request was made to the police for access to specified investigation records. After a search, the police provided access to responsive records withholding the personal information of affected parties taking the position that they were exempt from disclosure as a result of section 38(b) (personal privacy) read in conjunction with section 14(3)(b) (investigation into a possible violation of law). The appellant appealed also taking the position that further records should exist and that the records the police indicated were non-responsive be disclosed. In this order, the adjudicator upholds the police's decision except for one part of the Record at page 5 where he finds that the information is not personal information. The remainder of the appeal is dismissed.

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

## BACKGROUND:

[1] The appellant made the following request to the Toronto Police Services Board (the police) under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act)*:

> Access to own Personal Information and Investigation Records of Ex-spouses [named individual #1], and [named individual #2]-also known as [name variation for named individual #2], at:

255 Dundas St. West, Division 22, by Sergeant, [Specified badge #], Fraud Squad

40 Dundas St. West, Fraud Squad Investigation [Specified file #]

[2] The police issued a decision granting partial access and citing sections 14(1) and 38(b) (personal privacy) of the *Act* to withhold certain information.

[3] The police further indicated that some information had been removed as it does not pertain to the request.

[4] The requester (now the appellant) appealed the police's decision.

[5] During mediation, the mediator spoke with the parties. The appellant indicated that she wanted access to all the withheld information and that she believes additional information responsive to her request should exist.

[6] After relaying the appellant's concerns to the police, the police conducted another search and issued a supplementary decision disclosing additional information to the appellant.

[7] The appellant continues to seek access to the withheld information and continues to question the reasonableness of the police's search as well as the non-responsiveness of the records.

[8] As no further mediation was possible, the file was transferred to the adjudication stage of the appeals process. During the inquiry into this appeal, I sought representations from the parties. Representations were shared in accordance with section 7 of IPC's *Code of Procedure* and Practice Direction 7.

[9] In this order, except for one instance, I uphold the police's decision and find that their search was reasonable.

## RECORDS:

[10] The records remaining at issue are an Occurrence Report and an I/CAD Event Details Report.

## ISSUES:

A. Does the record contain "personal information" as defined in section 2(1) and, if so, to whom does it relate?

B. Does the discretionary exemption at section 38(b) apply to the information at issue?

C. Did the institution exercise its discretion under section 38(b)? If so, should this office uphold the exercise of discretion?

D. What is the scope of the request? What records are responsive to the request?

E. Did the institution conduct a reasonable search for records?

## DISCUSSION:

### Issue A: Does the record contain "personal information" as defined in section 2(1) and, if so, to whom does it relate?

[11] 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,
> >
> > (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;

[12] 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.[1]

[13] To qualify as personal information, it must be reasonable to expect that an

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

individual may be identified if the information is disclosed.[2]

[14] It their representations, the police refer to paragraphs (a) and (c) of the definition of "personal information" in section 2(1), as applying to the information in the records. The police state that the records were created as a result of the appellant attending the police station and asking the police to investigate a perceived criminal matter. According to the police, the appellant relayed the information regarding what she perceived to be a case of fraud. After reviewing the allegations and the options available for resolution, the police indicated that the case was closed. The police state that the records contain the personal information of the affected parties, including the names, date of birth and other personal information (marital status). The police state that not only is it reasonable to expect that other parties may be identified if the redacted portions were disclosed to the appellant, but that its release would constitute an unjustified invasion of personal privacy belonging to the other affected parties.

[15] Most of the appellant's representations do not focus on the actual issues on appeal and instead reference her allegations against her former spouses. On the issue of whether or not the records contain personal information, she states that she personally provided to the police hundreds of records through her own investigation, obtaining files from federal and provincial agencies under the *Act*. She indicates that she is concerned in sharing her own personal information with ex-spouses mentioned in the records.

***Finding:***

[16] From my review of the records, I find that they contain information that qualifies as the personal information of the appellant and the affected parties. The appellant and the affected parties' names, ages, birthdates and other information about them falls within the ambit of paragraphs (a) and (h) of the definition of personal information in section 2(1) of the *Act*.

[17] Under section 4(2) of the *Act*, if the police receive an access request that falls within one of the exceptions under sections 6 to 15, the police "shall disclose as much of the record as can reasonably be severed without disclosing the information that falls under one of the exemptions." It is apparent from my review that the police disclosed the appellant's personal information to her and what remains is the scant personal information of the affected parties. However, in my review, I note that one severance on page 5 of the Records is a business phone number of a federal employee. This is not personal information and will be ordered disclosed.

[18] Accordingly, I will proceed to consider whether this personal information is exempt from disclosure under the exemption claimed. I will now consider the

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

appellant's section 38(b) exemption claim.

**Issue B: Does the discretionary exemption at section 38(b) apply to the information at issue?**

[19] Since I have found that the record contains both the personal information of the appellant and the affected parties, section 36(1) applies to this appeal. Section 36(1) of the *Act* gives individuals a general right of access to their own personal information held by an institution. Section 38 provides a number of exemptions from this right.

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

[21] 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 appellant. This involves a weighing of the appellant's right of access to her own personal information against the other individual's right to protection of their privacy.

[22] Sections 14(1) to (4) provide guidance in determining whether disclosure of the information would be an unjustified invasion of personal privacy under section 38(b). If the information fits within any of paragraphs (a) to (e) of section 14(1), disclosure is not an unjustified invasion of personal privacy and the information is not exempt under section 38(b). None of these paragraphs apply to the information remaining at issue.

[23] The factors and presumptions at sections 14(2) and (3) help in determining whether disclosure would or would not be an unjustified invasion of privacy. Additionally, if any of paragraphs (a) to (c) of section 14(4) apply, disclosure is not an unjustified invasion of personal privacy and is not exempt under section 38(b).

### *Sections 14(2) and (3)*

[24] 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.

[25] 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.[3]

[26] For records claimed to be exempt under section 38(b) (i.e., records that contain

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[3] Order P-239.

the requester's own personal information), this office will consider, and weigh, the factors and presumptions in both 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.[4]

[27] I have found above that the records contain the personal information of affected parties. Now I will decide whether disclosure of this information (the personal information at issue) would be an unjustified invasion of their personal privacy.

[28] Sections 14(1) to (4) provide guidance in determining whether disclosure of the information would be an unjustified invasion of personal privacy. The police submit that the presumption at section 14(3)(b) of the *Act* applies to exempt the information from disclosure.

### *14(3)(b): investigation into violation of law*

[29] 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 into a possible violation of law.[5] The presumption can also apply to records created as part of a law enforcement investigation where charges are subsequently withdrawn.[6]

[30] The presumption can apply to a variety of investigations, including those relating to by-law enforcement[7] and violations of environmental laws or occupational health and safety laws.[8]

*Representations:*

[31] The police note that none of the exceptions in paragraphs 14(1)(a) to (e) apply. The police state that it is important to consider the nature of the institution when assessing the need for protecting the privacy interests of individuals. They state that if this record is released, "victims, and people trying to assist them may hesitate or be deterred in calling the very institutions that have been set up to protect them, if they realize their information may be released to an accused." The police state that full disclosure of the withheld portions of the record could expose the affected parties to potential harm or harassment. It notes that while the appellant may have named the affected parties when reporting to the police, they did not find merit to continue a police investigation into the alleged accused parties. Therefore, they submit that full disclosure of this record could expose the affected parties to potential harm or harassment.

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[4] Order MO-2954.
[5] Orders P-242 and MO-2235.
[6] Orders MO-2213, PO-1849 and PO-2608.
[7] Order MO-2147.
[8] Orders PO-1706 and PO-2716.

[32] The police note that they did not refer to any section 14(2) factors at the time they made the access decision, however, they suggest that sections 14(2)(e) (pecuniary or other harm), 14(2)(g) (inaccurate or unreliable) and 14(2)(i) (unfair damage to reputation) could be applied in order to balance the interests of both parties.

[33] With regard to section 14(2)(e), the police state that all indicators point to the records not being substantiated after investigating the appellant's claims and that releasing the affected parties' names could have a negative effect on their reputations and expose them to further scrutiny by government agencies. With regard to section 14(2)(g), the police state that based on the findings of all involved agencies/organizations, none of the allegations have been supported in fact. Finally, with regard to section 14(2)(i), the police state that release of the affected parties' names could have a negative effect on their reputations exposing them to further scrutiny.

[34] The police confirm that disclosure of the personal information of the parties identified in the records, was determined to be an unjustified invasion of their personal privacy. It states that the nature of law enforcement institutions, in great part, is to record information relating to unlawful activities, crime prevention activities, or activities involving members of the public who require assistance and intervention by the police. They state that this particular investigation into a possible violation of law was initiated at the behest of the appellant, and although it was determined to not be a police matter, the records created still fall under section 14(3)(b) of the *Act*.

[35] In her representations, the appellant comments on the actual investigation being conducted by the police into the allegations she made regarding the affected parties. She refers to section 403 of the *Criminal Code of Canada* which deals with identity fraud.

[36] The appellant comments on all of the section 14(2) factors, but in many instances she is simply restating the description of the factor from the Notice of Inquiry. For example, with regard to section 14(2)(a) (public scrutiny) she states that "[t]he disclosure of 14(2)(a) is desirable for the purpose of subjecting the activities of the Institution to the Public Scrutiny." She does not provide any explanation of how disclosure of this record would subject the activities of the police to public scrutiny.

[37] The appellant submits that section 14(2)(c) (purchase of goods and services) is relevant to this appeal. She states that she immigrated to Canada with a dream of success for herself and her family but identify theft and personation with intent regarding her CPP disability application was kept a secret by federal, provincial and municipal governments. She notes that she requested the police fraud squad to investigate after providing them with hundreds of records.

[38] The appellant also submits that section 14(2)(e) (pecuniary or other harm) is relevant to this appeal. She notes that she is the victim of identity theft dating back at

least twenty-five years. She also submits that section 14(2)(g) (inaccurate or unreliable) is relevant as she cannot judge if the information is accurate or not and the investigation records will provide her with this information. With regard to section 14(2)(i) (unfair damage to reputation), the appellant states that she is asking for the truth and the damage and harm is unfair to her every day. She notes that she lives in fear not knowing the truth and became homeless with deteriorating health as a result. She states that identify theft and personation with intent is an unjust invasion of her personal privacy and has damaged her reputation.

*Analysis and finding:*

[39] I have reviewed the withheld portions of the records for which the section 38(b) exemption is claimed, all of which contain the personal information of identifiable individuals other than the appellant. The portions of the records which the police claim qualify for exemption under section 38(b) include the name, marital status along with the criminal allegation made against them by the appellant, all of which I find constitutes their personal information. Disclosure of the severed portions of the records would reveal the identity of the affected persons to whom the information relates.

[40] It is clear that the records at issue in this appeal were compiled by the police in the course of their investigation of the allegations made by the appellant. On the basis of the representations provided by the police, I am satisfied that the personal information remaining at issue for which the section 38(b) exemption is claimed was compiled and is identifiable as part of the police investigation into a possible violation of law, and falls within the presumption in section 14(3)(b).

[41] I have also reviewed the appellant's arguments regarding the section 14(2) factors that might support her claim, and also considered any unlisted factors and conclude that none of them applies. In most of the appellant's representations involving the section 14(2) factors, she refers back to the allegations she has made against the affected parties commenting on those allegations throughout. The section 14(2) factors pertain to the police's determination whether to disclose the personal information in the record and I find particulars of the allegations made against the affected parties is not relevant to the analysis. The only factor where the appellant does not refer to her allegations against the affected parties is at section 14(2)(a). However, the appellant has provided no explanation of why disclosure of the withheld information is desirable for the purpose of subjecting the activities of the police to public scrutiny and, in any event, I find that this factor does not apply.

[42] Because the presumption in section 14(3)(b) is found to apply to the withheld information, and I find that no factors under section 14(2) support disclosure of the information, I am satisfied that the disclosure of this information would constitute an unjustified invasion of the personal privacy of the affected parties. More specifically, I find that the following information qualifies for exemption under section 38(b):

Page 1: the name, age, birthdate, gender, martial situation of an affected party along with the incident suspected of;

Page 2: the name and martial situation of two affected parties;

Page 7: the name, age, birthdate, gender, martial situation of an affected party along with the incident suspected of;

Page 8: the name, age, birthdate, gender, martial situation of an affected party along with the incident suspected of.

[43] Accordingly, I find that the withheld portions of the records listed above are exempt from disclosure under section 38(b) of the *Act*, subject to my discussion of the absurd result principle as well as my review of the police's exercise of discretion, below.

### *Absurd Result*

[44] In this appeal, some of the severed information in the records would have already been known to the appellant since she is the one who provided the information to the police.

[45] Previous orders have determined that, where a requester originally supplied the information, or a requester is otherwise aware of it, the information may be found not exempt under section 38(b) or 14, because to find otherwise would be absurd and inconsistent with the purpose of the exemption.[9]

[46] The absurd result principle has been applied where, for example:

- the requester sought access to his or her own witness statement[10]
- the requester was present when the information was provided to the institution[11]
- the information is clearly within the requester's knowledge[12]

[47] Previous orders have also stated that, if disclosure is inconsistent with the purpose of the exemption, the absurd result principle may not apply, even if the information was supplied by the requester or is in the requester's knowledge.[13]

[48] With respect to whether or not disclosure is consistent with the purpose of the section 21(3)(b) exemption (the provincial *Act* equivalent to section 14(3)(b)), former

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[9] Orders M-444, MO-1323
[10] Orders M-444, M-451, M-613
[11] Order P-1414
[12] Orders MO-1196, PO-1679, MO- 1755
[13] Orders M-757, MO-1323, MO-1378

Senior Adjudicator Goodis reviewed this issue in Order PO-2285, where he stated:

> Although the appellant may well be aware of much, if not all, of the information remaining at issue, this is a case where disclosure is not consistent with the purpose of the exemption, which is to protect the privacy of individuals other than the requester.

[49] Senior Adjudicator Goodis went on to refer to the following excerpt from Order MO-1378:

> The appellant claims that [certain identified photographs] should not be found to be exempt because they have been disclosed in public court proceedings, and because he is in possession of either similar or identical photographs.
>
> In my view, whether or not the appellant is in possession of these or similar photographs, and whether or not they have been disclosed in court proceedings open to the public, the section 14(3)(b) presumption may still apply. In similar circumstances, this office stated in Order M-757:
>
> > Even though the agent or the appellant had previously received copies of [several listed records] through other processes, I find that the information withheld at this time is still subject to the presumption in section 14(3)(b) of the *Act*.
>
> In my view, this approach recognizes one of the two fundamental purposes of the *Act*, the protection of privacy of individuals [see section 1(b)], as well as the particular sensitivity inherent in records compiled in a law enforcement context. The appellant has not persuaded me that I should depart from this approach in the circumstances of this case.

[50] I adopt the approach taken to the absurd result principle set out above, as well as the approach taken by the Senior Adjudicator in Orders MO-1378 and PO-2285.

[51] In this appeal, the police take the position that the absurd result principle does not apply to the records remaining at issue because it would be inconsistent with the purpose of the exemption, to protect the privacy of the affected third parties whose personal information has been collected as part of law enforcement activities. Further, the police note that since the affected parties could not be contacted due to lack of contact information, they would be unaware that their names have come up within the context of a law enforcement investigation which further cements their right to have their privacy protected.

[52] The appellant's comments on the absurd result in her representations deal with questioning why the affected parties committed the crimes for which she accuses them of.

*Finding:*

[53] I have reviewed the circumstances of this appeal, including:

1. the specific records at issue,
2. the background to the creation of the records,
3. the amount of information that has been disclosed to the appellant,
4. the nature of the exemption claims made for this information.

[54] I find that, in the circumstances, there is a particular sensitivity inherent in the information contained in the records, and that disclosure would not be consistent with the fundamental purpose of the *Act,* as identified by Senior Adjudicator Goodis in Order MO-1378. I agree that despite the appellant providing the information to the police, it was done so in the course of an investigation into an alleged violation of the law and I find that the information is still subject to the presumption in section 14(3)(b) as disclosure would be inconsistent with the purpose of this exemption. Accordingly, I find that the absurd result principle does not apply in this appeal.

**Issue C: Did the institution exercise its discretion under section 38(b)? If so, should this office uphold the exercise of discretion?**

[55] The exemption in section 38(b) is discretionary and permits the police to disclose information, despite the fact that it could be withheld. On appeal, this office may review the police's decision in order to determine whether they exercised their discretion and, if so, to determine whether they erred in doing so.[14]

[56] In their representations, the police submit that they exercised their discretion properly in not releasing the records, with consideration based on the following factors:

- Section 29 of the *Act* authorizes the indirect collection of personal information for the purpose of law enforcement. Section 28 of the *Act* introduces safeguards to the collection of personal information. In the case at issue, the balance between right of access and the protection of privacy must be given in favour of protecting the privacy of the other involved parties.
- In assessing the value of protecting the privacy interests of an individual other than the requester, one needs to consider the nature of the institution. The nature of a law enforcement institution is in great part to record information relating to unlawful activities, crime prevention activities, or activities involving members of the public who require assistance and intervention by the police.

[14] Orders PO-2129-F and MO-1629

[57] The police state that in determining the release of the requested records, they took into consideration the nature of the circumstances of the event, and exercised caution on the side of maintaining the privacy and confidentiality of the affected parties.

[58] In the appellant's representations, she states that the police took into account irrelevant considerations. She states that the information should be available to the public and that disclosure would increase public confidence in the operation of the institution. The appellant also references the historic practice of the institution with respect to similar information without providing any explanation for that statement.

***Finding:***

[59] In considering all of the circumstances surrounding this appeal, and after a review of the record, I am satisfied that the police considered the appropriate factors in exercising their discretion, and have not erred in their exercise of discretion not to disclose the records under sections 38(b) of the *Act*.

[60] I find that the police took into account relevant factors in weighing the factors both for and against the disclosure of the information at issue and did not take into account irrelevant considerations. The polices' representations reveal that they considered the appellant's position and circumstances, balanced against their mandate to gather information as part of an investigation into criminal allegations made by the appellant, in exercising their discretion not to disclose the information at issue.

[61] Also, I agree with the police that the severed information is the affected party's personal information. After reviewing the record, I accept that the police disclosed as much of the information to the appellant as possible without disclosing the personal information of the affected party.

[62] Under these circumstances, therefore, I am satisfied that the police have appropriately exercised their discretion under section 38(b).

**Issue D: What is the scope of the request? What records are responsive to the request?**

[63] Section 17 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).

[64] 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.[15]

[65] To be considered responsive to the request, records must "reasonably relate" to the request.[16]

[66] I have reviewed the 2 pages that the police state are not responsive to the request and conclude that they are unrelated to the access request in this appeal. There is no reference on either of these 2 pages to the appellant, the affected parties, the police badge number provided in the request or the fraud investigation number also provided in the request. Therefore, I find that the pages 10 and 11 are not responsive to the appellant's request to the police.

**Issue E: Did the institution conduct a reasonable search for records?**

[67] 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.[17] 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.

[68] 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.[18] To be responsive, a record must be "reasonably related" to the request.[19]

[69] 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.[20]

[70] A further search will be ordered if the institution does not provide sufficient

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[15] Orders P-134 and P-880.
[16] Orders P-880 and PO-2661.
[17] Orders P-85, P-221 and PO-1954-I.
[18] Orders P-624 and PO-2559.
[19] Order PO-2554.
[20] Orders M-909, PO-2469 and PO-2592.

evidence to demonstrate that it has made a reasonable effort to identify and locate all of the responsive records within its custody or control.[21]

[71] Although a requester will rarely be in a position to indicate precisely which records the institution has not identified, the requester still must provide a reasonable basis for concluding that such records exist.[22]

***Representations:***

[72] The police note that they did not contact the appellant for additional clarification of the request, as it was not deemed necessary as the appellant was quite clear on what she was looking for. The police state that responsive documents were located and released with a decision letter to the appellant. The police note that they conducted a subsequent search, where one additional responsive record was located and released in full.

[73] The police submit that during the mediation process, the mediator requested that the institution run an additional search for any records responsive to the request. This secondary search was conducted by a different analyst and proved negative. The original analyst also contacted the officer-in-charge (OIC) of the case for further clarification on the status of the case and whether any other records were generated. The police note that the OIC indicated that anything that they had within their possession would have been provided by the appellant initially. The OIC also indicated that no statements exist as none was taken since the case was determined not to be a police matter. The police noted that the records initially released to the appellant had few redactions and included the investigation completed by the officers. It was noted that the officer was also able to provide a further word document that summarized all contact with the appellant dating back to 2006 up to April 2016. The police advised that this was the only outstanding document in existence pertaining to the appellant and the fraud allegations. This record was released in full to the appellant in a follow up decision letter. The police maintain that the appellant has not provided a reasonable basis for concluding that any additional records exist.

[74] In her representations, the appellant states that the police did not inform her that the request was defective and offer assistance in reformulating same. She states that the police chose to define the scope of her request unilaterally without explanation. The appellant also states that she requested access to the personal information of her ex-spouses with an interest to obtain investigation records which involved them in criminal acts due to identify theft, personation with intent and physical violence.

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[21] Order MO-2185.
[22] Order MO-2246.

***Analysis and finding:***

[75] In this appeal, I have considered the appellant's representations in which she identifies what she regards as evidence to show that further responsive records exist. I have also considered the police's representations on the issue. In the circumstances of this appeal, I find that the police have provided sufficient evidence to establish that a reasonable search was conducted for responsive records. I make this finding for a number of reasons.

[76] First, as noted above, although an appellant will rarely be in a position to indicate precisely which records have not been identified in an institution's response, the appellant must, nevertheless, provide a reasonable basis for concluding that such records exist. On my review of the appellant's representations, I note that she has failed to provide any reasonable basis to conclude that further responsive records exist.

[77] Further, I agree with the police that the nature of the request was clear. Also, as indicated by the police, a subsequent search was conducted where another record was found and provided to the appellant. I also note that during mediation, the police were asked to conduct a further search which proved negative.

[78] Having reviewed the representations and evidence of the parties, I am satisfied that the police conducted a reasonable search for responsive records in this appeal. I find that the appellant's suggestions that further records exist is not supported by information which establish that there is a reasonable basis for concluding that additional records should exist.

[79] Accordingly, I uphold the police's search for responsive records.

## ORDER:

1. The police's decision is upheld except for one instance on page 5 of the Records. For greater certainty, I have provided a copy of this Record to the police with a copy of this order. Highlighted portions are to be disclosed. I order the police to disclose this information by sending it to the appellant by **January 8, 2018** but not before **January 3, 2018**.

Original Signed by: November 30, 2017

Alec Fadel
Adjudicator