

Information and Privacy Commissioner,
Ontario, Canada



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

INTERIM ORDER PO-3860-I

Appeal PA16-479

Ministry of Community Safety and Correctional Services

June 22, 2018

Summary: The appellant submitted an access request to the Ministry of Community Safety and Correctional Services (the ministry) under the *Freedom of Information and Protection of Privacy Act* seeking a copy of the Ontario Provincial Police's (the OPP) records management system operating manual (the manual) and a copy of OPP records related to a criminal investigation of the appellant.

The ministry denied access to the manual in its entirety. This order upholds this decision of the ministry and finds that the manual is exempt by reason of the mandatory third party information exemption in section 17(1).

The ministry denied access in part to the criminal investigation records about the appellant, citing the discretionary personal privacy exemption in section 49(b) and the law enforcement exemption at section 49(a) (discretion to refuse requester's own information) with 14(2)(a) (law enforcement report) and 14(1)(l) (facilitate the commission of an unlawful act).

This order finds that the "Criminal Brief Synopsis" is subject to section 49(a) with 14(2)(a) and orders the ministry to re-exercise its discretion with respect to this document. This order also finds that the remaining criminal investigation records are exempt in part by reason of section 49(b). The ministry is ordered to disclose the remaining portions of the other criminal investigation records.

Finally, this order finds that the decision letter was adequate under section 22.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended, sections 2(1) (definition of "personal information"), 49(b), 21(3)(b), 21(2)(f), 49(a), 14(2)(a), 14(1)(l), 17(1)(a) and (c), 22.

Orders Considered: Order M-913.

OVERVIEW:

[1] The appellant submitted the following access request to the Ministry of Community Safety and Correctional Services (the ministry) under the *Freedom of Information and Protection of Privacy Act (FIPPA or the Act)*:

1. A copy of the [name of manufacturer] RMS [Records Management System] operating manual. That is to say, the manual used by OPP [Ontario Provincial Police]¹ officers to input material, data and documents stemming from any criminal investigation conducted by the OPP.
2. Copies of all hand written notes made by any OPP officer concerning this case that were scanned into the [name] RMS system. This includes, but is not limited to, general case discussions and search notes.
3. Copies of all electronically produced notes made by any OPP officer concerning this case that were scanned or input in any fashion in the [name] RMS. This includes, but is not limited to, general case discussions and search notes.
4. Copy of the warrant to search the residence of [appellant's name] prepared by a member of the OPP, and stored in the [name] RMS.
5. Copy of the Information to obtain a Search Warrant (Pursuant to section 487(1) of the *Criminal Code (CC)* prepared by a member of the OPP, and stored in the [name] RMS.
6. Copy of all documents prepared by a member of the OPP in relation to the initial detention of things seized (pursuant to Section 490(1) of the CC) from the residence of [appellant] on [date], and stored in the [name] RMS.
7. Copy of all documents prepared by a member of the OPP in relation to the further detention of things seized (pursuant to section 490(2) of the CC) from the residence of [appellant] [date] and stored in the [name] RMS.
8. Copy of any other material, note or document that was input in some fashion to the [name] RMS in connection with the investigation of [appellant].

¹ The OPP is part of the ministry.

9. Copy of all witness interview notes prepared by any member of the OPP in relation to the investigation of [appellant] and stored in the [name] RMS.
10. Copy of all recorded or videotaped witness interviews conducted by any member of the OPP in relation to the investigation of [appellant] and stored in the [name] RMS.

[2] The ministry issued its access decisions with respect to part 1 of the request, the RMS Manual (referred to as Item 1 below) and with respect to, parts 2 to 10 of the request, the documents that relate to the appellant (referred to as Item 2 below).

Item 1 - RMS Manual

[3] The ministry denied access in full to the RMS Manual, citing the discretionary law enforcement exemption in section 14(1) and the mandatory third party information exemption in section 17(1) of the *Act*.

Item 2 - Information Re Appellant

[4] The ministry located 16 pages of records and granted partial access, citing the discretionary law enforcement exemption in section 14(1) in conjunction with section 49(a) (discretion to refuse requester's own information) and the discretionary personal privacy exemption in section 49(b) of the *Act*, and claimed that certain portions of these records were non-responsive to the request. The ministry granted full access to page 11 and partial access to pages 1, 2, 3, 5, 6, 7, 8, 12, 13, 14, 15 and 16, and withheld in full pages 4, and 9 and 10.

[5] In its decision, it noted that based on the clarification provided by the appellant, the ministry had interpreted the request to be for access to all OPP records that have not been identified as responsive to a previous access decision made by the ministry relating to the specified investigation. It further stated that the scope of the request is for access to all RMS reports and all witness interview notes, recorded or videotaped.

[6] The appellant filed an appeal of the ministry's decision with respect to the adequacy of the ministry's decision, the reasonableness of the ministry's search for records responsive to Item 2 and the ministry's exemptions and non-responsive claims.

[7] During mediation the reasonable search issue was resolved.

Adequacy of Decision

[8] With respect to item 1, the appellant asserts that the ministry did not provide an index of the exempted records or any indication as to how the invoked exemptions apply to the relevant portions of those records or whether the exemptions invoked apply to the records at large, or to different sections of the records.

[9] With respect to item 2, the appellant asserts that for pages 4, 9 and 10 which were withheld in full, the ministry broadly described these records as "Ontario Provincial Police Reports". The appellant submits that he is unable to understand the specific nature of the records exempted and why the records cannot be disclosed and, therefore, cannot effectively appeal. The appellant asserts that this is contrary to the ministry's obligations under section 22(1)(b) of the *Act* and [IPC Practices Number 1] "Drafting a Letter Refusing Access to a Record".

Exemptions and Non-Responsive

[10] The appellant wished to pursue access to the exempted information and challenges the ministry's exemption and non-responsive claims.²

[11] As the appeal could not be resolved at mediation, the appeal proceeded to the adjudication stage of the appeal process where an adjudicator conducts an inquiry. I sought and received the representations of the ministry, initially. In its representations, the ministry withdrew its reliance on some of the exemptions applied to the records responsive to Item 2 of the request. As a result, section 21(1) is no longer claimed for page 4 and section 14(1)(d) is no longer claimed for pages 7 to 10 of the records responsive to Item 2.

[12] During the adjudication stage of this appeal, I also sought representations from:

- the appellant,
- the manufacturer of the RMS (the affected party) on the application of the mandatory third party exemption in section 17(1), and
- the individuals whose personal information may be contained in the records (the affected persons), and
- reply representations from the ministry.

[13] Of these parties, I received representations from the appellant,³ the affected party, some of the affected persons, and the ministry. Due to the age of the records, which are over 10 years old, some of the affected persons could not be contacted.

[14] One affected person, who is a doctor, consented to their medical opinion being disclosed. Therefore, the ministry disclosed this information, less the doctor's name and

² In his representations at adjudication, the appellant confirmed that the scope of the request and the responsiveness of the records were not at issue in this appeal.

³ The appellant provided both confidential and non-confidential representations. Only the non-confidential representations were provided to the ministry in seeking its reply representations. As well, I will only be referring to the appellant's non-confidential representations in this order, although I have considered his representations in their entirety in arriving at my determinations in this order.

contact information.

[15] In this order, I uphold the ministry's decision to deny access to the RMS manual in its entirety. I find that the manual is exempt by reason of the mandatory third party information exemption in section 17(1).

[16] I also find that the "Criminal Brief Synopsis" at pages 7 to 16 of the records responsive to Item 2 is subject to the exemption in section 49(a) in conjunction with section 14(2)(a) and I order the ministry to re-exercise its discretion with respect to this document. I find that the remaining criminal investigation records are exempt in part by reason of section 49(b) and I order the ministry to disclose the remaining portions of these criminal investigation records to the appellant.

[17] I also find that the ministry's decision letter was adequate under section 22.

RECORDS:

[18] The records at issue are as follows:

Item 1 - RMS Operating Manual

[19] The ministry has withheld this record citing the application of sections 14 and 17(1).

Item 2 - Investigation Brief

[20] The ministry has withheld parts of pages 1, 2, 4, 7, 8 and 12 to 16 and all of pages 9 and 10.

- The record at pages 1 to 2 is a two page Occurrence Summary
- The record at page 4 is a Supplementary Occurrence Report
- Pages 7 to 10 and 12 to 16 are part of the "Crown Brief Synopsis"

[21] The ministry is relying on sections 49(b), and 49(a) in conjunction with 14 to withhold this information.

ISSUES:

- A. Did the ministry's decision letters comply with the requirements of the *Act*?
- B. Does the mandatory third party information exemption at section 17(1) apply to Item 1?

- C. Do the records responsive to Item 2 of the request contain “personal information” as defined in section 2(1) and, if so, to whom does it relate?
- D. Does the discretionary personal privacy exemption at section 49(b) apply to the information at issue in pages 1, 4, and 8 of Item 2?
- E. Does the discretionary exemption at section 49(a) (right to refuse access to one’s own personal information), in conjunction with the section 14 law enforcement exemption, apply to the information at issue in Item 2?
- F. Did the institution exercise its discretion under sections 49(a) and (b) for the records responsive to Item 2? If so, should this office uphold the exercise of discretion?

DISCUSSION:

A. Did the ministry’s decision letters comply with the requirements of the *Act*?

[22] Sections 26 and 29 of the *Act* are relevant to this issue. The relevant portions read:

26. Where a person requests access to a record, the head of the institution to which the request is made or if a request is forwarded or transferred under section 25, the head of the institution to which it is forwarded or transferred, shall, subject to sections 27, 28 and 57, within thirty days after the request is received,

a) give written notice to the person who made the request as to whether or not access to the record or a part thereof will be given; and

b) if access is to be given, give the person who made the request access to the record or part thereof, and where necessary for the purpose cause the record to be produced.

29. Notice of refusal to give access to a record or a part thereof under section 26 shall set out,

a) where there is no such record,

(i) that there is no such record, and

(ii) that the person who made the request may appeal to the Commissioner the question of whether such a record exists; or

b) where there is such a record,

(i) the specific provision of this Act under which access is refused,

(ii) the reason the provision applies to the record,

(iii) the name and position of the person responsible for making the decision, and

(iv) that the person who made the request may appeal to the Commissioner for a review of the decision.

[23] The appellant, after reviewing the ministry's representations, appears from his representations to now be satisfied with the information he has received from the ministry describing the records at issue and the applicable exemptions.

[24] I find that the decision letters appear on their face to be adequate. Even if I were to find that the decision letters in this appeal were inadequate, I would not have ordered the ministry to issue a new decision letter in the circumstances of this appeal.

[25] I note that previous IPC orders have not required an institution to issue a new or revised decision letter if there would be "no useful purpose" in requiring an institution to do so, even where the original decision letter was found to be inadequate. For example, in Order M-913,4 the adjudicator found that there would be "no useful purpose" in requiring a new decision to be issued, notwithstanding the inadequacy of the original decision letter, where "the appellant has exercised his right of appeal and provided extensive representations."⁵

[26] I also find that there would be "no useful purpose" in requiring the ministry to issue a new decision letter in the circumstances of this appeal.

B. Does the mandatory third party information exemption at section 17(1) apply to Item 1?

[27] The affected party relies on sections 17(1)(a) and (c) as it submits that release of Item 1, the RMS manual, could both prejudice its competitive position and result in undue loss to it and gain to its competitors.

⁴ Upheld on judicial review, *Duncanson v. Ontario (Information and Privacy Commissioner)*, [1999] O.J. No. 2464, 175 D.L.R. (4th) 340 (Div. Ct.).

⁵ See also Orders PO-2913 and PO-3691.

[28] The ministry relies on section 17(1)(b) as it submits that disclosure of the manual would make other vendors reluctant to share proprietary information with it, due to its inability to safeguard it.

[29] These sections in 17(1) read:

A head shall refuse to disclose a record that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly, where the disclosure could reasonably be expected to,

(a) prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;

(b) result in similar information no longer being supplied to the institution where it is in the public interest that similar information continue to be so supplied;

(c) result in undue loss or gain to any person, group, committee or financial institution or agency.

[30] Section 17(1) is designed to protect the confidential "informational assets" of businesses or other organizations that provide information to government institutions.⁶ Although one of the central purposes of the *Act* is to shed light on the operations of government, section 17(1) serves to limit disclosure of confidential information of third parties that could be exploited by a competitor in the marketplace.⁷

[31] For section 17(1) to apply, the institution and/or the third party must satisfy each part of the following three-part test:

1. the record must reveal information that is a trade secret or scientific, technical, commercial, financial or labour relations information; and
2. the information must have been supplied to the institution in confidence, either implicitly or explicitly; and
3. the prospect of disclosure of the record must give rise to a reasonable expectation that one of the harms specified in paragraph (a), (b), (c) and/or (d) of section 17(1) will occur.

[32] The ministry states that the manual contains detailed knowledge of how the

⁶ *Boeing Co. v. Ontario (Ministry of Economic Development and Trade)*, [2005] O.J. No. 2851 (Div. Ct.), leave to appeal dismissed, Doc. M32858 (C.A.) (*Boeing Co.*).

⁷ Orders PO-1805, PO-2018, PO-2184 and MO-1706.

OPP's record management system operates, what law enforcement records it can hold and how those law enforcement records can be accessed and analyzed, as well as describing security features of the RMS. It states that the RMS is a proprietary information and records management system developed by the affected party and is used by many police services worldwide.

[33] The ministry states that the manual contains technical information, as it describes the operation and use of the RMS. The ministry further states that the manual consists of commercially valuable information that is not widely known, and this constitutes "trade secrets".

[34] The ministry states that the manual was supplied to it in confidence and that knowledge of the manual is confined to those law enforcement agencies which subscribe to the affected party's RMS.

[35] The affected party states that the manual is part of the set of documentation that is provided to its RMS customers to allow them to determine how they will use the system, how they want to configure the system and as reference material for end users. It states that all of the manual is applicable to all Canadian RMS installations and most of the manual is also applicable to RMS installations in the US, the UK and Australia. It states that the manual is generic in nature and has not been tailored to the OPP's use of the system, rather it describes the full breadth of RMS functionality, whether used by the OPP or not.

[36] The affected party further states that its RMS software has been in development for over 18 years and represents an investment of many millions of dollars by it. It states that the capabilities of the system, both its strengths and weaknesses, are of interest to others selling competing products as that information allows them to tailor their sales pitch to potential customers. Additionally, it submits that competitors could use the information in the manual to "steal" good ideas for use in their own competing products, further harming the affected party's competitive position.

[37] The affected party states that its manuals are marked with the following confidentiality clause:

Restriction on Use, Publication or Disclosure of Proprietary Information
This document contains information proprietary to [the affected party], or to a third party to whom [the affected party] may have a legal obligation to protect such information from unauthorized disclosure, use or duplication. Any disclosure, use or duplication of this document or any of the information contained herein, for other than the specific purpose for which it was disclosed is expressly prohibited, except as [the affected party] may otherwise agree in writing.

[38] The affected party states that the manuals are released to its customers with the

expectation that this restriction will be honoured. It submits that the release of the manual could both prejudice its competitive position and result in undue loss to it and gain to its competitors.

[39] The appellant takes no issue with me considering the application of the section 17(1) exemption to the manual, and whether detailed and convincing evidence has been provided by the affected party as to whether the disclosure of any portions of the manual will give rise to a reasonable expectation of one of the harms in that section.⁸

Analysis/Findings

Part 1: type of information

[40] The types of information referred to by the ministry as listed in section 17(1) have been discussed in prior orders:

Trade secret means information including but not limited to a formula, pattern, compilation, programme, method, technique, or process or information contained or embodied in a product, device or mechanism which

- (i) is, or may be used in a trade or business,
- (ii) is not generally known in that trade or business,
- (iii) has economic value from not being generally known, and
- (iv) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.⁹

Technical information is information belonging to an organized field of knowledge that would fall under the general categories of applied sciences or mechanical arts. Examples of these fields include architecture, engineering or electronics. While it is difficult to define technical information in a precise fashion, it will usually involve information prepared by a professional in the field and describe the construction, operation or maintenance of a structure, process, equipment or thing.¹⁰

[41] I agree that the manual contains trade secrets as:

⁸ The appellant relies on *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)* 2014 SCC 31 at paras. 52-4.

⁹ Order PO-2010.

¹⁰ Order PO-2010.

- it contains a description of methods, techniques, or processes or information about the operation of the RMS that is not generally known,
- has economic value to the affected party from not being generally known, and
- as evidenced by the clause from the manual reproduced above, is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

[42] As well, I find that the manual contains technical information as it contains detailed information prepared by the affected party describing the operation of the RMS.

[43] Therefore, part 1 of the test under section 17(1) has been met.

Part 2: supplied in confidence

Supplied

[44] The requirement that the information was “supplied” to the institution reflects the purpose in section 17(1) of protecting the informational assets of third parties.¹¹

[45] Information may qualify as “supplied” if it was directly supplied to an institution by a third party, or where its disclosure would reveal or permit the drawing of accurate inferences with respect to information supplied by a third party.¹²

[46] It is clear from the evidence that the manual was supplied by the affected party to the ministry, as the manual was provided directly to the ministry by the affected party.

In confidence

[47] In order to satisfy the “in confidence” component of part two, the parties resisting disclosure must establish that the supplier of the information had a reasonable expectation of confidentiality, implicit or explicit, at the time the information was provided. This expectation must have an objective basis.¹³

[48] In determining whether an expectation of confidentiality is based on reasonable and objective grounds, all the circumstances of the case are considered, including whether the information was

- communicated to the institution on the basis that it was confidential and that it was to be kept confidential

¹¹ Order MO-1706.

¹² Orders PO-2020 and PO-2043.

¹³ Order PO-2020.

- treated consistently by the third party in a manner that indicates a concern for confidentiality
- not otherwise disclosed or available from sources to which the public has access
- prepared for a purpose that would not entail disclosure.¹⁴

[49] I agree with the affected party that the manual was supplied in confidence to the ministry. As noted above, the manual contains a confidentiality clause and knowledge of the manual is confined to those law enforcement agencies which subscribe to the affected party's RMS.

[50] As such, I find that the manual was:

- communicated to the ministry on the basis that it was confidential and that it was to be kept confidential,
- treated consistently by the affected party in a manner that indicates a concern for confidentiality,
- not otherwise disclosed or available from sources to which the public has access, and
- prepared for a purpose that would not entail disclosure.

[51] Therefore, as the manual was supplied in confidence to the ministry, part 2 of the test under section 17(1) has been met.

Part 3: harms

[52] The party resisting disclosure must provide detailed and convincing evidence about the potential for harm. It must demonstrate a risk of harm that is well beyond the merely possible or speculative although it need not prove that disclosure will in fact result in such harm. How much and what kind of evidence is needed will depend on the type of issue and seriousness of the consequences.¹⁵

[53] The failure of a party resisting disclosure to provide detailed and convincing evidence will not necessarily defeat the claim for exemption where harm can be inferred from the surrounding circumstances. However, parties should not assume that the harms under section 17(1) are self-evident or can be proven simply by repeating the

¹⁴ Orders PO-2043, PO-2371 and PO-2497, *Canadian Medical Protective Association v. Loukidelis*, 2008 CanLII 45005 (ON SCDC); 298 DLR (4th) 134; 88 Admin LR (4th) 68; 241 OAC 346.

¹⁵ *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)*, 2014 SCC 31 (CanLII) at paras. 52-4.

description of harms in the *Act*.¹⁶

[54] In applying section 17(1) to government contracts, the need for public accountability in the expenditure of public funds is an important reason behind the need for "detailed and convincing" evidence to support the harms outlined in section 17(1).¹⁷

[55] The manual is an extremely detailed instructional document consisting of over 900 pages of instructions on the operation and use of the RMS, a specialized law enforcement records management system. The manual outlines the operation of, and the capabilities of the RMS, which is of interest to others selling competing products. I find that disclosure of the detailed information in the manual could allow the affected party's competitors to tailor their competing records management systems, as well as their sales pitch to potential customers, thereby prejudicing the affected party's competitive position.

[56] I agree with the affected party that disclosure of the manual could reasonably be expected to significantly prejudice its competitive position under section 17(1)(a). As well, I agree with the affected party that disclosure of the manual could reasonably be expected to result in undue loss to it and undue gain to its competitors under section 17(1)(c). Therefore, part 3 of the test under sections 17(1)(a) and (c) has been met.

[57] As I have found that part 3 of the test has been met under sections 17(1)(a) and (c), there is no need for me to also consider whether part 3 of the test under section 17(1)(b) has been met.

[58] There is also no need for me to consider whether the law enforcement exemption in section 14 applies to the manual.

[59] Accordingly, Item 1, the RMS manual, is exempt from disclosure under section 17(1). In making this finding, I have considered whether any portions of the manual are not subject to section 17(1), however, I find that the manual contains interrelated information and so cannot be severed.

C. Do the records responsive to Item 2 of the request contain "personal information" as defined in section 2(1) and, if so, to whom does it relate?

[60] 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,

¹⁶ Order PO-2435.

¹⁷ Order PO-2435.

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

[61] 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.¹⁸

[62] Sections 2(2), (3) and (4) also relate to the definition of personal information. These sections state:

(2) Personal information does not include information about an individual who has been dead for more than thirty years.

(3) 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.

¹⁸ Order 11.

(4) For greater certainty, subsection (3) 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.

[63] 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.¹⁹

[64] 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.²⁰

[65] To qualify as personal information, it must be reasonable to expect that an individual may be identified if the information is disclosed.²¹

[66] The ministry states that it has withheld parts of pages 1, 4, 8, and 12 to 16 of the Investigation Records because they contain personal information belonging to affected third parties named in the OPP law enforcement investigation. It states that the personal information on pages 1, 4, and 8 includes the names of affected third party individuals, as well as other information about them, much of it highly sensitive, such as their home addresses, dates of birth, occupations and the individuals' involvement with an OPP law enforcement investigation.

[67] The ministry submits that the information listed on pages 12 to 16 identifies named individuals and their opinions while they were acting in a professional capacity. However, it submits that this information still qualifies as their personal information because it would "reveal something of a personal nature" about them, namely their opinions and advice they provided to the OPP, and their association and involvement with an OPP law enforcement investigation.

[68] The appellant disputes the ministry's characterization of the information about professionals in the record as being personal information.

Analysis/Findings

[69] All of the records in Item 2 contain the personal information of the appellant as they concern an OPP law enforcement investigation into the appellant's conduct to determine if the appellant had committed a *Criminal Code* offence.

¹⁹ Orders P-257, P-427, P-1412, P-1621, R-980015, MO-1550-F and PO-2225.

²⁰ Orders P-1409, R-980015, PO-2225 and MO-2344.

²¹ Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.).

[70] The appellant's personal information in the records in Item 2 includes his employment history and financial transactions, as well as the views or opinions of another individual about him in accordance with paragraphs (b) and (g) of the definition of personal information in section 2(1).

[71] The records in Item 2 also contain the personal information of other individuals. In particular, pages 1, 4, and the top of page 8 includes the names of witnesses that provided information to the OPP in their personal capacity. Pages 1 and 4 also includes these individuals' dates of birth, addresses, sex, and personal phone numbers. This information qualifies as personal information as set out in paragraphs (a), (d) and (h) of the definition of personal information in section 2(1).

[72] However, I agree with the appellant that the names of individuals on pages 12 to 16 and certain names on page 1 of the records in Item 2 are names of individuals in their professional capacity and that this information does not reveal anything of a personal nature about them. These individuals provided information to the OPP in their professional capacity as part of the investigation that is the subject of the records in Item 2.

[73] The ministry did not provide representations as to whether page 2 of the records contains personal information. Based on my review of the information at issue on this page, I find that it does not contain personal information of other individuals and section 49(b) cannot apply to this page. I will consider under Issue E whether section 49(a) in conjunction with 14(1)(l) applies to the information at issue in page 2.

[74] I will now consider whether the discretionary personal privacy exemption in section 49(b) applies to the personal information of other individuals in the records found at pages 1, 4, and the top of page 8 of Item 2.

D. Does the discretionary personal privacy exemption at section 49(b) apply to the information at issue in pages 1, 4, and 8 of Item 2?

[75] Section 47(1) of the *Act* gives individuals a general right of access to their own personal information held by an institution. Section 49 provides a number of exemptions from this right.

[76] Under section 49(b), where a record contains personal information of both the requester 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 requester. Since the section 49(b) exemption is discretionary, the institution may also decide to disclose the information to the requester.

[77] Sections 21(1) to (4) provide guidance in determining whether disclosure of the information would be an unjustified invasion of personal privacy.

[78] If the information fits within any of paragraphs (a) to (e) of section 21(1) or paragraphs (a) to (c) of section 21(4), disclosure is not an unjustified invasion of personal privacy and the information is not exempt under section 49(b). The information does not fit within these paragraphs in sections 21(1) or 21(4). In particular, the individuals whose personal information is contained in the records have not consented to disclosure of their information to the appellant.²²

[79] In determining whether the disclosure of the personal information in the records would be an unjustified invasion of personal privacy under section 49(b), this office will consider, and weigh, the factors and presumptions in sections 21(2) and (3) and balance the interests of the parties.²³

[80] In the circumstances, the ministry relies on the presumption at section 21(3)(b), which reads:

A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy where 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.

[81] The ministry states that the records in Item 2 were created during and pursuant to a law enforcement investigation, and they are clearly identifiable as such. It states that the records indicate that the investigation was related to fraud, an offence under the *Criminal Code*.

[82] The appellant did not directly address the application of section 21(3)(b) to the information at issue.

[83] Even if no criminal proceedings were commenced against any individuals, section 21(3)(b) may still apply. The presumption only requires that there be an investigation into a possible violation of law.²⁴ The presumption can also apply to records created as part of a law enforcement investigation where charges are subsequently withdrawn.²⁵

[84] Section 21(3)(b) does not apply if the records were created after the completion of an investigation into a possible violation of law.²⁶

²² The appellant did provide a consent from an individual to the disclosure of their information, however, this individual is not listed in the pages at issue.

²³ Order MO-2954.

²⁴ Orders P-242 and MO-2235.

²⁵ Orders MO-2213, PO-1849 and PO-2608.

²⁶ Orders M-734, M-841, M-1086, PO-1819 and PO-2019.

[85] The presumption can apply to a variety of investigations, including those relating to by-law enforcement²⁷ and violations of environmental laws or occupational health and safety laws.²⁸

[86] I agree with the ministry that the personal information in the records was compiled and is identifiable into an investigation into a violation of law related to potential fraud charges under the *Criminal Code* and that section 21(3)(b) applies.

[87] Section 21(2) lists various factors that may be relevant in determining whether disclosure of personal information would constitute an unjustified invasion of personal privacy.²⁹

[88] The list of factors under section 21(2) is not exhaustive. The institution must also consider any circumstances that are relevant, even if they are not listed under section 21(2).³⁰

[89] The ministry relies on the factor in section 21(2)(f), which reads:

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,

the personal information is highly sensitive.

[90] To be considered highly sensitive, there must be a reasonable expectation of significant personal distress if the information is disclosed.³¹

[91] The ministry states that:

In Order P-1618, the IPC found that the personal information of individuals who are "complainants, witnesses or suspects" as part of their contact with the OPP is "highly sensitive" for the purpose of section 21(2)(f). The ministry submits that this reasoning should be applied to the above-referenced Investigation Records as they also contain the personal information of individuals expressly or by implication identified as complainants, witnesses or suspects.

[92] The appellant states that it is not sufficient that the release of the information might cause some level of embarrassment to those affected.³² He submits that the

²⁷ Order MO-2147.

²⁸ Orders PO-1706 and PO-2716.

²⁹ Order P-239.

³⁰ Order P-99.

³¹ Orders PO-2518, PO-2617, MO-2262 and MO-2344.

³² The appellant relies on Order P-1117.

ministry must lead record-by-record evidence to this effect, and has failed to do so in this case.

[93] The affected persons who did respond to the Notice of Inquiry objected to the disclosure of their personal information.

[94] The personal information of other individuals is found on pages 1, 4 and 8 of the records. This includes the personal information of witnesses. Based on my review of this information, I find that the personal information of the witnesses is highly sensitive in this appeal and the factor in section 21(2)(f) applies.

[95] As noted above, in determining whether the disclosure of the personal information in the records would be an unjustified invasion of personal privacy under section 49(b), this office will consider, and weigh, the factors and presumptions in sections 21(2) and (3) and balance the interests of the parties.

[96] In this appeal, the presumption in section 21(3)(b) and the factor favouring privacy protection in section 21(2)(f) applies. The appellant has not provided evidence on any factors favouring disclosure. Based on my review of the specific personal information of other individuals in the records and balancing the interest of the parties, I find that the applicable factor and presumption weigh in favour of the privacy protection of the personal information of individuals other than the appellant in Item 2.

[97] In conclusion, the names, dates of birth, addresses, sex, and phone numbers of the witnesses on pages 1, 4 and 8 of the records is, subject to my review of the absurd result principle and the ministry's exercise of discretion, exempt under section 49(b).

Absurd result

[98] Where the requester originally supplied the information, or the requester is otherwise aware of it, the information may not be exempt under section 49(b), because to withhold the information would be absurd and inconsistent with the purpose of the exemption.³³

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

- the requester sought access to his or her own witness statement³⁴
- the requester was present when the information was provided to the institution³⁵
- the information is clearly within the requester's knowledge³⁶

³³ Orders M-444 and MO-1323.

³⁴ Orders M-444 and M-451.

³⁵ Orders M-444 and P-1414.

[100] However, 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 within the requester's knowledge.³⁷

[101] The appellant submits that the absurd result principle should apply to:

- i. Information in the possession and control of the appellant that was seized by the OPP (and thus supplied to the OPP by the appellant);
- ii. The personal information of one of the potentially affected third parties, who has now provided their consent to the release of the information; and
- iii. Any information already contained in the selected ... disclosure received by the appellant..

[102] The ministry states that it has disclosed personal information belonging to affected persons who have consented to the disclosure of their personal information. It states that these parts of the records are, therefore, not at issue for the purpose of this appeal and that the absurd result principle, therefore, should not apply to them.

Analysis/Findings

[103] As noted above, the appellant did provide a consent from an individual to the disclosure of their information, however, this individual is not listed in the pages at issue. Therefore, the absurd result principle is not applicable to the information for which the appellant has provided a consent.

[104] As well, the information at issue in Item 2 is not information in the possession and control of the appellant that was seized by the OPP (and thus supplied to the OPP by the appellant), as alleged by the appellant.

[105] Lastly, the appellant seeks to have applied the absurd result principle to information he has received from other access to information requests. Based on my review of this information, I find that this information is different from that at issue in this appeal.

[106] In this appeal, I find that the absurd result principle does not apply to the personal information at issue as the appellant is not seeking access to his own witness statement, was not present when the information was provided to the ministry and is not information that is clearly within his knowledge.

[107] Accordingly, subject to my review of the ministry's exercise of discretion, the personal information at pages 1, 4, and 8 of the records is exempt under section 49(b).

³⁶ Orders MO-1196, PO-1679 and MO-1755.

³⁷ Orders M-757, MO-1323 and MO-1378.

[108] Concerning page 4 in particular, I find that the personal information of the identifiable individual can be severed from this page. I find that the remaining information is not exempt under section 49(b). As only section 49(b) has been claimed for the responsive information on page 4, I will order the remaining information this page disclosed.

[109] Section 49(a) with the law enforcement exemption in section 14 has been claimed for all of the information at issue in Item 2. Therefore, I will consider whether the remaining information at issue found at pages 1, 2, and 7 to 16 of Item 2 is exempt by reason of the law enforcement exemption.

E. Does the discretionary exemption at section 49(a) (right to refuse access to one's own personal information), in conjunction with the section 14 law enforcement exemption, apply to the information at issue in Item 2?

[110] Section 47(1) gives individuals a general right of access to their own personal information held by an institution. Section 49 provides a number of exemptions from this right. At the time of the request, section 49(a) read:³⁸

A head may refuse to disclose to the individual to whom the information relates personal information,

where section 12, 13, 14, 14.1, 14.2, 15, 16, 17, 18, 19, 20 or 22 would apply to the disclosure of that personal information.

[111] Section 49(a) of the *Act* recognizes the special nature of requests for one's own personal information and the desire of the legislature to give institutions the power to grant requesters access to their personal information.³⁹

[112] Where access is denied under section 49(a), the institution must demonstrate that, in exercising its discretion, it considered whether a record should be released to the requester because the record contains his or her personal information. The institution is asked to address this under "Exercise of Discretion", below.

[113] In this case, the institution relies on section 49(a) in conjunction with sections 14(1)(l) and 14(2)(a) specifically.

[114] Sections 14(1) and (2) state in part:

(1) A head may refuse to disclose a record where the disclosure could reasonably be expected to,

³⁸ Section 49(a) now includes section 15.1.

³⁹ Order M-352.

(l) facilitate the commission of an unlawful act or hamper the control of crime.

(2) A head may refuse to disclose a record,

(a) that is a report prepared in the course of law enforcement, inspections or investigations by an agency which has the function of enforcing and regulating compliance with a law;

[115] The term "law enforcement" is used in several parts of section 14, and is defined in section 2(1) as follows:

"law enforcement" means,

(a) policing,

(b) investigations or inspections that lead or could lead to proceedings in a court or tribunal if a penalty or sanction could be imposed in those proceedings, or

(c) the conduct of proceedings referred to in clause (b)

[116] The term "law enforcement" has covered the following situations:

- a municipality's investigation into a possible violation of a municipal by-law that could lead to court proceedings.⁴⁰
- a police investigation into a possible violation of the *Criminal Code*.⁴¹
- a children's aid society investigation under the *Child and Family Services Act* which could lead to court proceedings⁴²
- Fire Marshal fire code inspections under the *Fire Protection and Prevention Act, 1997*.⁴³

[117] This office has stated that "law enforcement" does not apply to the following situations:

- an internal investigation by the institution under the *Training Schools Act* where the institution lacked the authority to enforce or regulate compliance with any law.⁴⁴

⁴⁰ Orders M-16 and MO-1245.

⁴¹ Orders M-202 and PO-2085.

⁴² Order MO-1416.

⁴³ Order MO-1337-I.

- a Coroner's investigation or inquest under the *Coroner's Act*, which lacked the power to impose sanctions.⁴⁵

[118] Generally, the law enforcement exemption must be approached in a sensitive manner, recognizing the difficulty of predicting future events in a law enforcement context.⁴⁶

[119] It is not enough for an institution to take the position that the harms under section 14 are self-evident from the record or that the exemption applies simply because of the existence of a continuing law enforcement matter.⁴⁷ The institution must provide detailed and convincing evidence about the potential for harm. It must demonstrate a risk of harm that is well beyond the merely possible or speculative although it need not prove that disclosure will in fact result in such harm. How much and what kind of evidence is needed will depend on the type of issue and seriousness of the consequences.⁴⁸

[120] I will first consider the application of section 14(2)(a) to the information at issue in pages 7 to 16, which are part of one document entitled "Crown Brief Synopsis."

Section 14(2)(a): (law enforcement report)

[121] In order for a record to qualify for exemption under section 14(2)(a) of the *Act*, the institution must satisfy each part of the following three-part test:

1. the record must be a report; and
2. the report must have been prepared in the course of law enforcement, inspections or investigations; and
3. the report must have been prepared by an agency which has the function of enforcing and regulating compliance with a law.⁴⁹

[122] The word "report" means "a formal statement or account of the results of the collation and consideration of information". Generally, results would not include mere observations or recordings of fact.⁵⁰

⁴⁴ Order P-352, upheld on judicial review in *Ontario (Solicitor General) v. Ontario (Assistant Information and Privacy Commissioner)* (1993), 102 D.L.R. (4th) 602, reversed on other grounds (1994), 107 D.L.R. (4th) 454 (C.A.).

⁴⁵ Order P-1117.

⁴⁶ *Ontario (Attorney General) v. Fineberg* (1994), 19 O.R. (3d) 197 (Div. Ct.).

⁴⁷ Order PO-2040 and *Ontario (Attorney General) v. Fineberg*, cited above.

⁴⁸ *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)*, 2014 SCC 31 (CanLII) at paras. 52-4.

⁴⁹ Orders 200 and P-324.

⁵⁰ Orders P-200, MO-1238 and MO-1337-I.

[123] The title of a document does not determine whether it is a report, although it may be relevant to the issue.⁵¹

[124] The ministry states that pages 7 to 16, the "Crown Brief Synopsis," is a formal report issued under the OPP's insignia, and it describes in detail the evidence the OPP has gathered in its investigation of the appellant. It states that although it could have withheld the entire report under this exemption, it elected to sever the report and disclose parts of it.

[125] The ministry takes the position that the "Crown Brief Synopsis" fits within the three-part test as it was prepared as part of a law enforcement investigation by the OPP, a police service that has a statutory mandate to 'enforce and regulate compliance' with the law. It further states that:

(a) The "Crown Brief Synopsis" has the appearance of a "formal statement". It is a stand-alone report, which appears under the OPP insignia, it is typed, and it is written using paragraphs and full sentences. The "Crown Brief Synopsis" follows a narrative sequence from how the investigation started, to the conclusions that were reached, and the charges that were laid; and,

(b) The "Crown Brief Synopsis contains analysis, findings and conclusions, and it is comprehensive, being approximately 10 pages in length.

[126] The appellant submits that the "Crown Brief Synopsis" does not qualify as a "report" with in the meaning of section 14(2)(a) as it was not prepared in the course of law enforcement, inspections or investigations, as required by the provision. Rather, it was prepared following the conclusion of the investigation and the charging of the appellant.

[127] In reply, the ministry submits that even if the appellant's statement is true, it is irrelevant, as the test for section 14(2)(a), requires that the report must have been prepared in the course of law enforcement. The ministry states that the report was prepared in the course of the policing duties of the OPP, which include preparing Crown brief synopsis, and therefore the report falls squarely within the exemption in section 14(2)(a).

Analysis/Findings re section 14(2)(a)

[128] Based on my review of the Crown Brief Synopsis at pages 7 to 16 of the records, I agree with the ministry's description of this document and find that it qualifies as a report within the meaning of section 14(2)(a).

⁵¹ Order MO-1337-I.

[129] The Crown Brief Synopsis in this appeal was prepared in the course of a law enforcement investigation by the OPP, an agency which has the function of enforcing and regulating compliance with a law. The Crown Brief Synopsis is a formal statement or account of the results of the collation and consideration of information in the investigation into the appellant's actions.

[130] Therefore, subject to my review of the ministry's exercise of discretion, I find that the information at issue in the Crown Brief Synopsis found at pages 7 to 16 of the records is exempt under section 49(a), in conjunction with section 14(2)(a).

Does section 14(1)(l) (commission of an unlawful act or control of crime) apply to pages 1 to 2?

[131] The appellant takes no issue with the application of the section 14(1)(l) exemption to the law enforcement codes on pages 1 and 2 of the records, therefore, this information is not at issue and the ministry's decision to withhold this information is upheld.

[132] Therefore, from my review of pages 1 and 2 of the records, the following responsive information remains at issue:

- The names of three Workplace Safety Insurance Board (WSIB) employees on page 1 of the records,⁵² and
- A very short statement about the appellant on page 2 of the records.

[133] The ministry did not provide specific representations on this information. Concerning section 14(1)(l), the ministry is concerned that disclosure generally would reveal techniques and procedures that the OPP uses to investigate fraud that are not widely known, and publicizing them will allow would-be offenders to commit similar crimes.

[134] The ministry also submits that disclosure would discourage members of the public and subject matter experts from cooperating with the police out of concern that the information they provide would be subject to disclosure in the manner contemplated by this appeal. It submits that this would have a harmful effect on the conduct of investigations and their purpose which is to control crime.

[135] The ministry further submits that disclosure of the records will discourage the meticulous record-keeping that is required to conduct fraud investigations, thereby hampering the control of crime.

[136] The appellant's position is that the ministry has failed to provide detailed and

⁵² The ministry has disclosed that these three individuals work at the WSIB.

convincing evidence that section 14(1)(l) applies. He states that information about investigative techniques that are already in the public domain or easily inferred cannot be reasonably expected to hamper crime control or facilitate the commission of crime, if disclosed.

[137] The appellant also submits that there is no basis for the ministry's suggestion that disclosure of the records at issue will "discourage the meticulous record-keeping that is required to conduct fraud investigations," or the bald assertion that "if law enforcement officers knew that if records they created pursuant to an investigation were subject to disclosure in the manner contemplated by this appeal, they might be less willing to create them in the first place out of concern that they would be subsequently disclosed." He states that such an assertion flies in the face of law-enforcement officers' duties to "prepare accurate, detailed and comprehensive notes as soon as practicable after an investigation."⁵³

[138] The appellant states that police officers are well aware of their duty to take detailed accurate notes and of the likelihood that their notes and records will be disclosed by the Prosecution to the Defence. He submits that:

To suggest that the subsequent release of those selfsame records in the context of a Freedom of Information request would somehow spur officers to disregard their duties, does a disservice to those officers.

Analysis/Findings re section 14(1)(l)

[139] Pages 1 and 2 of the records consists of an Occurrence Summary prepared by the OPP well over 10 years ago.

[140] As noted above, remaining at issue on page 1 are the names of three WSIB employees, who are listed in their records in their professional capacity. Remaining at issue on page 2 is a very short statement about the appellant.

[141] I cannot ascertain from my review of the records and the parties' representations how this information could reasonably be expected to facilitate the commission of an unlawful act or hamper the control of crime.

[142] I agree with the appellant that police officers are required to take accurate, detailed and comprehensive notes and that disclosure of the information at issue in pages 1 and 2 of the records could not reasonably be expected to result in the hampering the control of crime or to discourage co-operation with the police as submitted by the ministry.

[143] Therefore, I find that the information remaining at issue that I have not found

⁵³ The appellant relies on *Schaeffer v. Wood* [2013] S.C.J. No. 71, at paragraphs 63 to 68.

subject to section 49(b) on pages 1 and 2 of the records is not exempt under section 49(a) in conjunction with section 14(1)(l). As no other discretionary exemptions have been claimed for this information and no mandatory exemptions apply, I will order it disclosed.

F. Did the institution exercise its discretion under sections 49(a) and (b) for Item 2? If so, should this office uphold the exercise of discretion?

[144] The sections 49(a) and (b) exemptions are discretionary and permit an institution to disclose information, despite the fact that it could withhold it. An institution must exercise its discretion. On appeal, the Commissioner may determine whether the institution failed to do so.

[145] In addition, the Commissioner 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
- it fails to take into account relevant considerations.

[146] In either case this office may send the matter back to the institution for an exercise of discretion based on proper considerations.⁵⁴ This office may not, however, substitute its own discretion for that of the institution.⁵⁵

[147] Relevant considerations may include those listed below. However, not all those listed will necessarily be relevant, and additional unlisted considerations may be relevant:⁵⁶

- 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

⁵⁴ Order MO-1573.

⁵⁵ Section 54(2).

⁵⁶ Orders P-344 and MO-1573.

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

[148] The ministry submits that it considered that disclosure of highly sensitive law enforcement records could be expected to result in the records becoming part of the public domain, where they could be disseminated without restriction. It further submits that it considered that disclosure of the records could be expected to cause incalculable harm to trust based relationships formed between the OPP, its vendors, other law enforcement agencies and members of the public.

[149] The appellant states that the ministry failed to take into account relevant considerations, including that:

- Individuals should have a right to access their own personal information;
- The appellant was seeking, in large part, his own personal information, in relation to occurrences over a decade ago; and
- The public has an interest in knowing whether, and how, its law enforcement institutions comply with their legal obligations concerning searches and information-sharing, pursuant to statute and the *Canadian Charter of Rights and Freedoms*.

[150] In reply, the ministry states that it did take that consideration into account, and did release, in part, to the appellant his personal information.

[151] The ministry also states that the appellant is not asserting a public interest in this appeal, but a private one.

Analysis/Findings

Crown Brief Synopsis

[152] The information that I have found subject to section 49(a) with section 14(2)(a) is the information at issue in the "Crown Brief Synopsis" at pages 7 to 16 of the records. As noted above, other than the information at the top of page 8, the information in these pages is information about only the appellant, including professional opinions about him. In particular, the information at issue in pages 7, 9, 10, 11, 12, 13, 14, 15, 16 and the second severance on page 8 of the records does not contain the personal information of other individuals.

[153] The ministry has not considered the following in exercising its discretion to withhold this information:

- that the appellant is seeking his own personal information,
- whether the appellant has a sympathetic or compelling need to receive the information, which includes the reasons why criminal charges were brought against him,
- the extent to which it is significant and/or sensitive to the appellant, and
- the age of the information at issue in the "Crown Brief Synopsis", which is over 10 years old.

[154] The ministry submits that disclosure could harm its relationship with the OPP, its vendors, other law enforcement agencies and members of the public. It has not explained how this harm could result from disclosure of appellant's own information in the "Crown Brief Synopsis," a document that prepared by the OPP, which is part of the ministry. Nor can I ascertain this from my review of this document.

[155] Accordingly, I will order the ministry to re-exercise its discretion under section 49(a) with section 14(2)(a) concerning the information at issue in pages 7 to 16 (other than the personal information of another individual at the top portion of page 8) of the records, the "Crown Brief Synopsis."

Personal information of other individuals

[156] The information I have found subject to section 49(b) is information on pages 1, 4 and the top portion of page 8 of the records and consists of the names of witnesses listed in their personal capacity, along with other personal information about them including their dates of birth, addresses, sex, and personal phone numbers.

[157] I find that the ministry properly exercised its discretion under section 49(b) with respect to the witnesses' information on pages 1 and 4 and the information of another

individual at the top portion of page 8 of the records. This information concerns other individuals. The ministry properly took into account the purpose of the personal privacy exemption in section 49(b), which includes to protect the privacy of other individuals.

ORDER:

1. I uphold the ministry's decision to deny access to the personal information of other individuals and the police codes in pages 1, 2, 4, and the top of page 8 of the records. For ease of reference I have provided the ministry with a copy of these pages, highlighting the information that should ***not*** be disclosed from these pages.
2. I order the ministry to disclose the remaining information in pages 1, 2, and 4 of the records to the appellant by **July 30, 2018** but not before **July 24, 2018**.
3. I order the ministry to re-exercise its discretion in accordance with the analysis set out above concerning the information at issue in the "Crown Brief Synopsis" at pages 7 to 16 of the records, except for the personal information of another individual at the top of page 8, and to advise the appellant and this office of the result of this re-exercise of discretion, in writing.
4. If the ministry continues to withhold all or part of this information at pages 7 to 16 of the records, I also order it to provide the appellant with an explanation of the basis for re-exercising its discretion to do so and to provide a copy of that explanation to me.
5. The ministry is required to send the results of its re-exercise of discretion, and its explanation to the appellant, with the copy to this office, by no later than **July 24, 2018**. If the appellant wishes to respond to the ministry's re-exercise of discretion and/or its explanation for re-exercising its discretion to withhold information, he must do so within 30 days of the date of the ministry's correspondence by providing me with written representations.

Original Signed by: _____
Diane Smith
Adjudicator

_____ June 22, 2018