

Information and Privacy Commissioner,  
Ontario, Canada



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

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## ORDER MO-3952

Appeal MA18-00753

Peel Regional Police

August 28, 2020

**Summary:** The police received an access request under the *Act* for records relating to a specified occurrence, including photographs. In their decision, the police granted partial access to the responsive records and withheld the remaining information pursuant to section 38(a) (discretion to refuse requester's own information) in conjunction with section 8(1)(l) (facilitate commission of an unlawful act) and section 38(b) (personal privacy) of the *Act*. During mediation, the appellant made a correction request, which the police denied. The correction denial was added to the issues on appeal. In this order, the adjudicator upholds, in part, the police's application of sections 14(1), 38(b) and 38(a) in conjunction with section 8(1)(l). She also upholds the police's decision to deny the correction request.

**Statutes Considered:** *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, sections 2(1) (definition of "personal information"), 8(1)(l), 14(1), 17, 36(2), 38(a) and 38(b).

**Orders Considered:** Order MO-3773.

### OVERVIEW:

[1] The Peel Regional Police (the police) received a request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for records relating to a specified occurrence. The requester noted that he was also seeking photographs taken by the police.

[2] The police decided to grant partial access to the responsive records, withholding the remaining information pursuant to sections 8(1)(l) (facilitate commission of an

unlawful act) and 38(b) (personal privacy) of the *Act*.

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

[4] During mediation, the appellant advised that he believes that further records exist, specifically an audio or a video recording. Following a further search, the police located an additional responsive record. They subsequently denied access to that record pursuant to section 14(1) of the *Act*. As the withheld information included the appellant's personal information, the mediator recommended that section 38(b) of the *Act* be added to the scope of the appeal. The police confirmed that section 38(b) is applicable to the withheld information.

[5] The appellant also advised that he was seeking the correction of the responsive records and submitted a correction request to the police.

[6] The police denied the appellant's correction request, provided clarification of the records and advised the appellant of his ability to require the police to attach a statement of disagreement to the records. The appellant did not request that a statement of disagreement be attached to the records.

[7] As mediation did not resolve the issues under appeal, the appeal was transferred to the adjudication stage, where an adjudicator may conduct an inquiry under the *Act*.

[8] During the inquiry, I sought and received representations from the parties. Pursuant to section 7 of this office's *Code of Procedure and Practice Direction Number 7*, the parties' representations were shared with one another.

[9] In this order, I uphold, in large part, the police's application of the exemptions at sections 14(1), 38(b) and 38(a) in conjunction with section 8(1)(l). I order the police to disclose the small amount of information that is not exempt from disclosure. I also uphold the police's decision to deny the correction request.

## **RECORDS:**

[10] The records at issue are an occurrence details report, handwritten police notes, photographs and the audio of a 911 call. The photographs and the 911 audio call were provided to this office on a CD.

## **ISSUES:**

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

- B. Does the mandatory personal privacy exemption at section 14(1) or the discretionary personal privacy exemption at section 38(b) apply to the personal information that has been withheld?
- C. Does the discretionary exemption at section 38(a) in conjunction with the section 8(1)(l) law enforcement exemption apply to the information at issue?
- D. Did the police exercise their discretion under sections 38(a) and/or 38(b)? If so, should this office uphold the exercise of discretion?
- E. Should the police correct the personal information under section 36(2)?

## **DISCUSSION:**

### **Preliminary issue: reasonable search**

[11] During mediation, the appellant argued that further records responsive to his request exist, specifically an audio or a video recording related to the specified occurrence.

[12] As such, the police conducted a further search, and located an audio recording of a 911 call. As stated above, the police initially issued a supplementary decision denying access pursuant to section 14(1) of the *Act*. Subsequently, the police revised their exemption claim to section 38(b). They also stated in their decision that no further records existed.

[13] As the appellant did not address this issue in his representations and the police located the additional responsive record that the appellant believes existed, I decline to make any finding on the police's search in this order.

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

[14] In order to determine whether sections 14(1) and/or 38(b) of the *Act* applies, it is necessary to decide whether the records contain "personal information" and, if so, to whom it relates.

[15] The relevant paragraphs of the definition of "personal information" in section 2(1) are the following:

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

- (a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual,

(b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,

(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;

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

[17] To qualify as personal information, the information must be about the individual in a personal capacity. As a general rule, information associated with an individual in a professional, official or business capacity will not be considered to be "about" the individual.<sup>2</sup>

[18] Even if information relates to an individual in a professional, official or business capacity, it may still qualify as personal information if the information reveals something of a personal nature about the individual.<sup>3</sup>

[19] To qualify as personal information, it must be reasonable to expect that an individual may be identified if the information is disclosed.<sup>4</sup>

[20] The police submit that the records contains personal information as defined in section 2(1) of the *Act*. They submit that the records contain information about another individual, the affected party, and, in particular, the affected party's address, telephone number, and views and opinions.

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<sup>1</sup> Order 11.

<sup>2</sup> Orders P-257, P-427, P-1412, P-1621, R-980015, MO-1550-F and PO-2225.

<sup>3</sup> Orders P-1409, R-980015, PO-2225 and MO-2344.

<sup>4</sup> Order PO-1880, upheld on judicial review *in Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.).

[21] Although the appellant provided representations, he does not address this issue.

[22] Based on my review of the records, I find that they contain “personal information” as defined by the *Act*. The occurrence details report, handwritten police notes, and the audio recording of the 911 call contain the personal information of the appellant and other identifiable individuals while the photographs only contain the personal information of another identifiable individual, the affected party. Specifically, the records at issue contain information that would fall within paragraphs (a), (b), (d), (e), (g) and (h) of the definition of “personal information” in section 2(1) of the *Act*.

[23] However, I find that a small withheld portion on page 7 of the occurrence details report does not contain personal information. The information in this portion contains two police officers’ names. One of the police officers is the author of the report. The police officers’ names appear in their professional capacity and do not reveal something of a personal nature about them. Accordingly, as only personal information can be withheld under sections 14(1) or section 38(b) and the police have not claimed any other exemptions for this information, I will order this small portion of the report disclosed.

[24] As the photographs only contain the personal information of another individual and not of the appellant, Part I of the *Act* applies to those records and I must consider whether the withheld information is exempt pursuant to the mandatory personal privacy exemption at section 14(1) of the *Act*.

[25] As the occurrence details report, handwritten police notes, and the audio recording of the 911 call contain the personal information of the appellant and other individuals, Part II of the *Act* applies to this information and I must consider whether the withheld information is exempt pursuant to the discretionary exemptions at sections 38(a) and/or (b) of the *Act*.

**B: Does the mandatory personal privacy exemption at section 14(1) or the discretionary personal privacy exemption at section 38(b) apply to the personal information that has been withheld?**

[26] 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.

[27] Under section 38(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 38(b) exemption is discretionary, the institution may also decide to disclose the information to the requester.

[28] In contrast, under section 14(1), where a record contains personal information of

another individual but *not* the requester, the institution is prohibited from disclosing that information unless one of the exceptions in sections 14(1)(a) to (e) applies, or unless disclosure would not be an unjustified invasion of personal privacy (the section 14(1)(f) exception).

[29] Under section 38(b), if any of the exceptions in sections 14(1)(a) to (e) applies, disclosure is not an unjustified invasion of personal privacy and the information is not exempt under section 38(b).

[30] None of the section 14(1)(a) to (e) exceptions is applicable here.

[31] In determining whether disclosure of the personal information in the records *would not* be an unjustified invasion of personal privacy under section 14(1)(f) or *would* be an unjustified invasion of personal privacy under section 38(b), sections 14(2) to (4) also provide guidance.

[32] 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 the information is not exempt under either section 14(1) or section 38(b). None of the circumstances listed in section 14(4) is present here.

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

[33] The police submit that the following factors and presumptions at sections 14(2) and 14(3) are relevant in this appeal. They read, in part, as follows:

(2) A head, in determining whether a disclosure of personal information constitutes an unjustified invasion of personal privacy, shall consider all the relevant circumstances, including whether,

(f) the personal information is highly sensitive;

(g) the personal information is unlikely to be accurate or reliable;

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

(b) was compiled and is identified 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;

## ***Analysis and findings***

### *Section 14(1) - photographs*

[34] I will first consider the application of the mandatory personal privacy exemption in section 14(1) to the photographs as they only contain the personal information of the affected party. The police withheld these records in full. As stated earlier, the police are prohibited from disclosing these photographs unless one of the circumstances listed in sections 14(1)(a) to (e) applies, or unless disclosure would not be an unjustified invasion of personal privacy [section 14(1)(f)]. In this case, the exceptions in sections 14(1)(a) to (e) do not apply to these photographs.

[35] To determine whether disclosure of these photographs are an unjustified invasion of personal privacy, I need to consider whether any of the presumptions in section 14(3) applies. If so, the disclosure of the photographs are presumed to be an unjustified invasion of personal privacy.

[36] The police submit that the presumption under section 14(3)(b) applies as the photographs were created as part of an investigation into a possible violation of law. The police submit that the release of the photographs would constitute an unjustified invasion of the other individual's personal privacy. The police also submit that section 14(3)(b) applies even when criminal proceedings are not commenced, as there only has to be an investigation into a 'possible' violation of law.

[37] I agree with the police that the presumption in section 14(3)(b) applies to the personal information at issue as the photographs were created and are identifiable as part of an investigation into a possible violation of the *Criminal Code of Canada*. Where the exemption at issue is section 14(1), once a presumption under section 14(3) is established it is can only be overcome if a section 14(4) exception or the "public interest override" at section 16 of the *Act* applies. None of the section 14(4) exception applies and the appellant did not raise the application of section 16. As such, I find that disclosure of these photographs is presumed to be an unjustified invasion of the individual's privacy and the photographs are exempt from disclosure under the mandatory personal privacy exemption at section 14(1) of the *Act*.<sup>5</sup>

### *Section 38(b) - remaining information at issue*

[38] As stated earlier, the remaining records at issue contain the personal information of the appellant and other individuals. As such, I must weigh the presumptions and factors in sections 14(3) and 14(2) and balance the interests of the parties in determining whether the disclosure of the personal information in these records would

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<sup>5</sup> *John Doe*, cited above.

be an unjustified invasion of personal privacy and therefore exempt under section 38(b).

[39] In this case, I agree with the police that section 14(3)(b) also applies to the personal information withheld in the remaining records. The personal information contained in these records was compiled and is identifiable as part of investigations into possible violations of the *Criminal Code of Canada*, which resulted in charges being laid. Section 14(3)(b) therefore weighs in favour of non-disclosure of the withheld information in these records.

[40] With respect to the factors in section 14(2), the police rely on sections 14(2)(f) (the personal information is highly sensitive) and 14(2)(g) (the personal information is unlikely to be accurate or reliable). They submit that the withheld personal information in the remaining records is highly sensitive and there is a reasonable expectation of significant personal distress to the affected party if the information is disclosed, in particular the audio recording of the 911 call. The police cites Orders MO-3229, PO-3093 and PO-1764 for the principle that this office has accepted that a call for assistance can be highly sensitive in a number of instances.

[41] I find the factor in sections 14(2)(f) is relevant with respect to the personal information contained in these records because of the nature of the affected party's personal information in these records. To be considered highly sensitive, there must be a reasonable expectation of significant personal distress if the information is disclosed.<sup>6</sup> Given the nature of the personal information withheld in these records, I accept that disclosure of this information to the appellant would cause the affected party significant personal distress. Accordingly, I give this factor some weight.

[42] With respect to section 14(2)(g), the police submit that there is no evidence to suggest the withheld personal information is inaccurate or unreliable. They point out that one of the police officers confirmed that no corrections were needed to the occurrence details report.

[43] The factor at section 14(2)(g) weighs in favour of non-disclosure where it is established that the withheld personal information is unlikely to be accurate or reliable. In this case, the police submit that the withheld personal information *is* accurate and reliable. As such, I find that this factor does not apply to weigh in favour of non-disclosure.

[44] The appellant submits that he wants full disclosure of the records because he believes that he had been falsely accused of domestic assault by his former partner. He also submits that he believes his rights as a citizen were taken away from him by the

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<sup>6</sup> Orders PO-2518, PO-2617, MO-2262 and MO-2344.

two police officers who made an unfair, unjust decision. The appellant finally submits that he wants a non-severed copy of the records as he will be moving forward in a legal case.

[45] Although the appellant does not state that he is relying on the factor at section 14(2)(d), it appears that he is arguing that the withheld personal information is relevant to a fair determination of his rights. Section 14(2)(d) states:

the personal information is relevant to a fair determination of rights affecting the person who made the request;

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

1. the right in question is a legal right which is drawn from the concepts of common law or statute law, as opposed to a non-legal right based solely on moral or ethical grounds; and
2. the right is related to a proceeding which is either existing or contemplated, not one which has already been completed; and
3. the personal information which the appellant is seeking access to has some bearing on or is significant to the determination of the right in question; and
4. the personal information is required in order to prepare for the proceeding or to ensure an impartial hearing.<sup>7</sup>

[47] In order for section 14(2)(d) to apply, all four parts must be established. I am not persuaded by the appellant's representations that section 14(2)(d) applies to the personal information at issue in this appeal. The appellant has not provided sufficient evidence to establish the application of this factor, outside of stating that he will be pursuing a legal case, his desire to prove that the allegations were false and to have peace of mind about what happened on the night in question. Therefore, as the appellant has not persuaded me that the four-part test of section 14(2)(d) has been met, I find that section 14(2)(d) does not apply.

[48] However, as an unlisted factor, I will consider that the appellant wants the withheld personal information to pursue a legal case and for peace of mind. I give this factor some weight.

[49] In addition, I have considered whether any other factors in section 14(2),

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<sup>7</sup> Order PO-1764; see also Order P-312, upheld on judicial review in *Ontario (Minister of Government Services) v. Ontario (Information and Privacy Commissioner)* (February 11, 1994), Toronto Doc. 839329 (Ont. Div. Ct.).

including listed and unlisted factors in favour of disclosure, may apply, but I find that none apply in the circumstances.

[50] I have found that sections 14(3)(b) and 14(2)(f) apply to the remaining personal information at issue, I find that they outweigh the unlisted factors identified by the appellant and the factor at section 14(2)(g) in favour of disclosure. Accordingly, I find that disclosure of the remaining personal information would constitute an unjustified invasion of the affected party's personal privacy under section 38(b) of the *Act*, subject to my findings on the police's exercise of discretion below under Issue D.

**C: Does the discretionary exemption at section 38(a) in conjunction with the section 8(1)(l) law enforcement exemption apply to the information at issue?**

[51] Section 38(a) is another exemption from an individual's general right of access to their own personal information. It reads:

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

if section 6, 7, **8**, 8.1, 8.2, 9, 10, 11, 12, 13 or 15 would apply to the disclosure of that personal information.

[52] Section 38(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.<sup>8</sup>

[53] Where access is denied under section 38(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.

[54] In this case, the police rely on section 38(a) in conjunction with section 8(1)(l).

[55] Section 8(1)(l) reads:

A head may refuse to disclose a record if the disclosure could reasonably be expected to,

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

[56] The police state that the appellant seeks access to confidential police information which, if released, could hamper crime control and facilitate the commission of an

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<sup>8</sup> Order M-352.

unlawful act. They submit that this office has issued several orders with respect to the disclosure of police codes, patrol zone information and statistical information and these orders have consistently found that section 8(1)(l) applies to this type of information. Therefore, they submit that access to 10-codes, patrol zone information and/or statistical codes is rightfully denied pursuant to section 8(1)(l).

[57] Although the appellant provided representations, he did not address this issue.

[58] This office has issued many orders regarding the release of police codes, as well as law enforcement codes and FPS number (fingerprint synopsis number), and has consistently found that section 8(1)(l) applies to this type of information.<sup>9</sup> I have reviewed the records at issue and find that they contain identifying 10-codes, and a FPS number.

[59] Several orders have applied the following reasoning stated in order PO-1665 by Adjudicator Laurel Cropley:

In my view, disclosure of the "ten-codes" would leave OPP officers more vulnerable and compromise their ability to provide effective policing services as it would be easier for individuals engaged in illegal activities to carry them out and would jeopardize the safety of OPP officers who communicate with each other on publicly accessible radio transmission space.

[60] I agree with and adopt the above reasoning for the purposes of this analysis. As such, I find the 10-codes and the FPS number to be exempt under section 38(a) in conjunction with section 8(1)(l) of the *Act*.

**D: Did the police exercise their discretion under sections 38(a) and 38(b)? If so, should this office uphold the exercise of discretion?**

[61] The sections 38(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.

[62] 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

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<sup>9</sup> See Orders M-93, M-757, MO-1715, MO-3224, PO-1665 MO-2607 and MO-3773.

- it fails to take into account relevant considerations.

[63] In either case, this office may send the matter back to the police for an exercise of discretion based on proper considerations.<sup>10</sup> This office may not, however, substitute its own discretion for that of the institution.<sup>11</sup>

[64] The police submit that they exercised their discretion appropriately. They submit that they considered the relevant considerations under section 38(b) of the *Act*, including the balancing of rights and the need to protect sensitive information. They also submit that they disclosed information that would have already been in the appellant's knowledge, but withheld sensitive and personal information pertaining to the affected party. The police finally submit that they exercised their discretion in good faith, taking into account relevant factors without considering any irrelevant factors.

[65] Although the appellant provided representations, he did not address this issue.

[66] Based on my review of the police's representations and the nature and content of the records at issue, I find that the police properly exercised their discretion to withhold the personal information pursuant to sections 38(a) and 38(b) of the *Act*. I note that the police took into account the following relevant considerations: the relationship between the appellant and the affected party; and the wording of the exemption and the interests it sought to be protected. I am satisfied that the police took into account that the records contain the appellant's personal information and that they did not act in bad faith or for an improper purpose. Accordingly, I uphold the police's exercise of discretion in deciding to withhold the personal information pursuant to sections 38(a) and 38(b).

### **E: Should the police correct personal information under section 36(2)?**

[67] As stated above, section 36(1) gives an individual a general right of access to his or her own personal information held by an institution. Section 36(2) gives the individual a right to ask the institution to correct the personal information. If the institution denies the correction request, the individual may require the institution to attach a statement of disagreement to the information.

[68] Sections 36(2)(a) and (b) state:

Every individual who is given access under subsection (1) to personal information is entitled to,

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<sup>10</sup> Order MO-1573.

<sup>11</sup> Section 43(2).

(a) request correction of the personal information where the individual believes there is an error or omission therein;

(b) require that a statement of disagreement be attached to the information reflecting any correction that was requested but not made;

[69] This office has previously established that in order for an institution to grant a request for correction, all three of the following requirements must be met:

1. the information at issue must be personal and private information; and
2. the information must be inexact, incomplete or ambiguous; and
3. the correction cannot be a substitution of opinion.<sup>12</sup>

[70] In each case, the appropriate method for correcting personal information should be determined by taking into account the nature of the record, the method indicated by the requester, if any, and the most practical and reasonable method in the circumstances.<sup>13</sup>

### ***Representations***

[71] In their representations, the police refer to the three requirements that must be met before personal information will be corrected (set out above). The police agree that the information is the appellant's personal information as it falls within paragraphs (a), (b), (d) and (h) of the definition of "personal information" and, therefore, the first requirement is met. However, the police submit that the appellant does not meet the next two requirements; the information must be inexact, incomplete or ambiguous; and, the correction cannot be a substitution of opinion.

[72] The police submit that the appellant's correction request pertained to records of an investigatory nature which cannot be said to be "incorrect", "in error" or "incomplete" as they reflect the views of the individuals and police officers whose impressions are set out. The police also submit that a named police officer confirmed that the police were advised by the affected party that a verbal altercation over the status of the relationship occurred before the alleged assault. Thus, the police submit that the information is an accurate reflection of the author's observations and impressions at the time it was created and should not be corrected.

[73] In addition, the police explain that the appellant wants the term "alleged" to be

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<sup>12</sup> Orders P-186 and P-382.

<sup>13</sup> Orders P-448, MO-2250 and PO-2549.

included in some portions of the occurrence details report. They submit that placing the term "alleged" before "argument" or "accused" would be redundant as all occurrence reports speaks to allegations, and would set a precedent that places an undue burden on police officers completing occurrence reports.

[74] Although the appellant provided representations, he did not address this issue.

***Findings and analysis***

[75] As noted above, in order to qualify for a correction, all three of the following requirements must be met:

1. the information at issue must be personal and private information; and
2. the information must be inexact, incomplete or ambiguous; and
3. the correction cannot be a substitution of opinion.<sup>14</sup>

[76] After reviewing the records at issue and the representations of the parties, I find that the first requirement of the test has been met, and the information at issue qualifies as the personal information of the appellant. Having found that the first requirement of the test has been met, I now turn to the second and third requirements.

[77] It appears that the information the appellant would like corrected is solely contained in the occurrence details report. I note that the appellant did not provide submissions on this issue. As such, the only evidence before me is the police's decision of February 6, 2019 in which they address the appellant's correction request and the police's representations made during the inquiry.

[78] Records of an investigatory nature, such as the occurrence details report at issue, cannot be said to be "incorrect" or "in error" or "incomplete" if they simply reflect the views of the individual whose impressions are being set out. It is not the truth of the recorded information that is determinative of whether a correction request should be granted, but rather, whether or not what is recorded accurately reflects the author's observations and impressions at the time the record was created.<sup>15</sup> I am satisfied, after reviewing the record at issue, that the officers who recorded the information after speaking to the affected party recorded that information based on their own observations and impressions or the affected party's observations and impressions at the time they created the occurrence details report. Therefore, the record reflects the views of the officers or the affected party and cannot be said to be incorrect, in error or incomplete.

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<sup>14</sup> Orders P-186 and P-382.

<sup>15</sup> Orders M-777, MO-1438 and PO-2549.

[79] As noted above, all three requirements must be met in order to qualify for a correction. As the second requirement has not been met, I do not need to consider the third requirement – whether the correction is a substitution of opinion.

[80] I note the the appellant was offered the opportunity to file a statement of disagreement under section 36(2) of the *Act* reflecting any correction that was requested but not made. Even though, as the police indicated, the appellant has, to date, refused to require that a statement of disagreement be attached to the information that he takes exception to, this is an option that is still available to him.

[81] Furthermore, based on the interpretation of section 36(2)(a) developed in the orders cited above, I am not persuaded that the police have exercised their discretion inappropriately in refusing to correct the record at issue. Therefore, I uphold the decision of the police not to correct the personal information under section 36(2)(a) of the *Act*.

## **ORDER:**

1. I uphold the police's application of section 38(a) in conjunction with section 8(1)(l).
2. I order the police to disclose the information that the police withheld under section 38(b) that is not "personal information" to the appellant by **October 5, 2020** but not before **September 28, 2020** in accordance with the highlighted record I have enclosed with the police's copy of this order. To be clear, the highlighted information should be disclosed to the appellant.
3. I otherwise uphold the police's application of the personal privacy exemptions at sections 14(1) and 38(b).
4. I uphold the police's decision to deny the correction request.
5. In order to verify compliance with this order, I reserve the right to require the police to provide me with a copy of the record as disclosed to the appellant.
6. The timelines noted in order provision 2 may be extended if the police is unable to comply in light of the current COVID-19 situation, and I remain seized to consider any resulting extension request.

Original signed by: \_\_\_\_\_

Lan An  
Adjudicator

August 28, 2020 \_\_\_\_\_