

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-4014-I

Appeal MA19-00129

Ottawa Police Service

February 24, 2021

**Summary:** The Ottawa Police Service (the police) received a request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for access to reports and officers' notes relating to the appellant. The police granted partial access to responsive records with severances under sections 14(1) and 38(b) of the *Act* (personal privacy). The appellant appealed the police's decision and also claimed that additional responsive records should exist. In this order, the adjudicator finds that the discretionary personal privacy exemption in section 38(b) applies to the information that has been withheld, but orders the police to conduct a further search for an officer's notes.

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

### OVERVIEW:

[1] This appeal relates to a request made under the *Municipal of Information and Protection of Privacy Act* (the *Act*) to the Ottawa Police Service (the police) for "all information" relating to the requester. Specifically, the requester sought access to:

1. All information that relates to me
2. All information that relate[s] to me in the police officer's notebooks.

[2] The police conducted a search and located responsive records. They issued a decision granting partial access to the responsive records. The police denied access to some information pursuant to the exemption in section 8(1) (law enforcement), and the

mandatory personal privacy exemption in section 14(1) (personal privacy). The police also withheld some information pursuant to the discretionary personal privacy exemption in section 38(b), with reference to the presumption against disclosure in section 14(3)(b) (investigation into possible violation of law).

[3] Following a conversation with the requester, the police issued a supplementary decision in which they gave "partial access to additional records that were not originally disclosed" with their initial decision. The police and the appellant continued to communicate, with the result that the police issued another supplementary decision granting access to another one of the records to which they had earlier denied access.

[4] The requester, now the appellant, appealed the police's decision to withhold the remaining information to the Information and Privacy Commissioner's office (the IPC). The parties participated in mediation to explore the possibility of resolution. During mediation, the appellant informed the mediator that she believed additional records exist. The police conducted additional searches and issued two more supplementary decisions. The police granted partial access to additional records, but severed information that they wrote was the personal information of an uninvolved third party.

[5] The appellant also informed the mediator that she was having difficulty reading an officer's handwriting in the duty book notes that the police provided with their last supplementary decision. The police clarified the contents of the handwritten notes. The appellant informed the mediator that those handwritten notes were no longer at issue.

[6] Also during mediation, the appellant confirmed that some information contained in a general occurrence report of an incident in May 2018 appeared to be unrelated to her request. The police provided additional information and access to further records, and the appellant informed the mediator that access to this record was also no longer at issue in this appeal. The appellant confirmed that she does not seek access to the information that the police withheld from the table of contents (which accompanied the partially disclosed records), or to information withheld under section 8(1) (law enforcement), so that this exemption was also removed as an issue in this appeal.

[7] Following discussions about the severances in the records disclosed by the police, the appellant informed the mediator that she still seeks access to one report of an incident that occurred in September 2015. The police granted partial access to the September 2015 report but severed information pursuant to the personal privacy exemptions in section 14(1) and section 38(b), with reference to the presumption in section 14(3)(b). The appellant confirmed that she does not seek access to the affected parties' identifying information, so that this issue too, was removed from the scope of this appeal. However, the appellant confirmed that she wished to proceed to adjudication for access to the affected parties' statements and non-identifying information withheld by the police.

[8] Finally, despite the police's additional searches, the appellant continues to believe additional records exist. The issue of the reasonableness of the police's search was therefore added as an issue to the appeal.

[9] As no further mediation was possible, the appeal was transferred to the adjudication stage of the appeal process where an adjudicator may conduct an inquiry. I decided to conduct an inquiry during which the police and the appellant submitted representations.<sup>1</sup> In summary, after the police's initial decision and four supplementary decisions, the only issues in this appeal are access to the information relating to affected parties, namely their statements provided to the police and severed from the September 2015 report, as well as the reasonableness of the police's search for responsive records.

[10] In this order, I find that the affected parties' statements to the police qualify for exemption under the discretionary personal privacy exemption at section 38(b). However, I find that the police did not conduct a reasonable search for responsive records and order them to conduct a further search for a specific officer's notes.

### **RECORD:**

[11] The record is a 14-page general occurrence report relating to an incident that occurred in September 2015. The information at issue is information that the police severed from pages 3, 4, 5, 8 and 9 of the record.<sup>2</sup>

### **ISSUES:**

- A. Does the record contain "personal information" as defined in section 2(1), and if so, to whom does it relate?
- B. Does the discretionary personal privacy exemption at section 38(b) apply to the information at issue?
- C. Should the police's exercise of discretion under section 38(b) be upheld?
- D. Did the police conduct a reasonable search for responsive records?

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<sup>1</sup> After reviewing the appellant's and the police's representations, and the record at issue, I determined that it was not necessary to invite representations from the affected parties.

<sup>2</sup> The police have also withheld some information from an officer's notes on page 12 of the record. The information withheld from page 12 is identifying personal information belonging to affected parties that the appellant has confirmed is not at issue in this appeal.

## **DISCUSSION:**

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

[12] 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, whose. That term is defined in section 2(1), which states in part that:

“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,

...

(c) any identifying number, symbol or other particular assigned to the individual,

(d) the address, telephone number, fingerprints or blood type of the individual,

(e) the personal opinions or views of the individual except if they relate to another individual,

(f) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence,

(g) the views or opinions of another individual about the individual, and

(h) the individual’s name if it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual;

[13] 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>3</sup>

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<sup>3</sup> Order 11.

[14] 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>

### ***Representations***

[15] The police submit that the record contains the personal information of the appellant and the affected parties, consisting of their names, their sex, dates of birth, addresses, phone numbers and statements/personal views.

[16] The appellant does not dispute that the record contains personal information (either her own or that of the affected parties). She submits that she is not seeking access to any of the affected parties' identifying personal information, but only to their statements to the police withheld from the record.

[17] After reviewing the record and the parties' representations, I find that the record contains the mixed personal information of the appellant and of other, identifiable individuals (the affected parties). The record contains their names, dates of birth, sex, race, addresses, telephone numbers, their statements and their views and opinions about their involvement and the event under investigation. The names of all of the identifiable individuals appear with other personal information relating to them that, if disclosed, would reveal other personal information about them.

[18] The record also contains correspondence – an email – sent to the police by an affected party and the police's reply to that email which, if disclosed, would reveal the contents of the affected party's original email.

[19] Collectively, therefore, I find that the record contains information that fits within paragraphs (a), (c), (d), (e), (f), (g) and (h) of the definition of "personal information" in section 2(1) of the *Act*.

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

[20] I note at the outset that the police applied both the mandatory personal privacy exemption under section 14(1) and the discretionary personal privacy exemption under section 38(b) to withhold some of the information at issue from the record.

[21] Previous IPC orders have established that where a record contains both the personal information of the requester and another individual, or individuals as in this case, the request falls under Part II of the *Act* and the relevant personal privacy exemption is the exemption at section 38(b).<sup>5</sup> Some exemptions, including the personal

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

<sup>5</sup> Order M-352.

privacy exemption, are mandatory under Part I (section 14(1)), but discretionary under Part II (section 38(b)), so that in the latter case, an institution may disclose information under Part II that it would not disclose if Part I is applied.<sup>6</sup>

[22] Former Commissioner Brian Beamish wrote in Order PO-3129 that the correct approach is to review the *entire* record, and not only those portions at issue, to determine whether it contains the requester's personal information. This record-by-record analysis is significant because it determines whether the record as a whole, rather than only certain portions of it, must be reviewed under Part I or Part II of the *Act*.<sup>7</sup>

[23] As I have already noted, the police claimed that section 14(1) applies to exempt some of the information at issue. However, I have already found (and the police do not dispute) that the record also contains the appellant's personal information.

[24] Applying a record-by-record approach, I find that the appropriate exemption is the discretionary exemption at section 38(b). I will therefore consider whether the information at issue, namely the affected parties' statements to the police that are contained in the record, qualify for exemption under the discretionary personal privacy exemption at section 38(b).

[25] Finally, because the appellant does not seek access to the affected parties' identifying personal information (names, dates of birth, contact information or similar identifying information), but only to the statements they provided to the police, I will consider the possible application of the discretionary personal privacy exemption in section 38(b) only in relation to the affected parties' statements to the police that remain in issue. As noted above, the affected parties' other personal information is removed from the scope of this appeal.<sup>8</sup>

***Does the discretionary personal privacy exemption at section 38(b) apply?***

[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 appellant and another individual, and disclosure of the information would be an "unjustified invasion" of the other individual's personal privacy, the institution may refuse to disclose that information to the appellant. Since the section 38(b) exemption is discretionary, the institution may also decide to disclose the information. This involves a weighing of the appellant's right of access to her own personal information against

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<sup>6</sup> Orders MO-1757-I and MO-2237.

<sup>7</sup> Order M-352.

<sup>8</sup> This includes the personal information withheld from page 12 of the record, as noted above.

the other individuals' right to protection of their privacy.

[28] Sections 14(1) to (4) provide guidance in determining whether the threshold for an unjustified invasion of personal privacy under section 38(b) is met. Section 14(2) provides a list of factors for the police to consider in making this determination, while section 14(3) lists the types of information whose disclosure is presumed to constitute an invasion of personal privacy.

[29] Section 14(4) sets out certain types of information whose disclosure is not an unjustified invasion of personal privacy. The parties do not submit that section 14(4) is relevant, and I find that section 14(4) does not apply to the circumstances of this appeal.

[30] In determining whether the disclosure of the personal information in a record would be an unjustified invasion of personal privacy under section 38(b), the IPC will consider and weigh the factors and presumptions in sections 14(2) and (3) and balance the interests of the parties.<sup>9</sup>

### ***Representations<sup>10</sup>***

#### *The police's representations*

[31] The police submit that the affected parties provided the information at issue to the police in confidence, during an investigation into a possible violation of law. They say that disclosure is therefore presumed to constitute an unjustified invasion of the affected parties' personal privacy pursuant to section 14(3)(b).

[32] The police argue that there is an expectation of confidentiality when they collect personal information in the course of law enforcement matters. They say that personal information they collect during an investigation must be safeguarded in order to protect their investigative processes. If it is disclosed without the consent of the individuals who supplied it, the police say that those individuals might hesitate to assist police in the future, because there would be no guarantee that their information would not be released.

#### *The appellant's representations*

[33] The appellant objects to the police's redaction of entire pages from the record, submitting that entire pages cannot contain information that is only the affected parties' personal information as defined in section 2(1) of the *Act*. She submits that the police have not demonstrated that entire pages need to be redacted, and also says that

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<sup>9</sup> Order MO-2954.

<sup>10</sup> As noted above, after reviewing the appellant's and the police's representations, and the record at issue, I determined that it was not necessary to invite representations from the affected parties.

because police severed information from the responsive records, the disclosure she received is incomplete.

[34] The appellant also disputes the police's reliance on the presumption against disclosure in section 14(3)(b) to deny her access to information.<sup>11</sup>

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

[35] Section 14(3)(b) states that:

(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 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;

[36] I find that the personal information in the record was compiled and is identifiable as part of an investigation into a possible violation of law. The record was created after the appellant contacted the police for help following a disturbance at her home. The police responded to the appellant's report of harassment and threatening activity, and to her request for police assistance. The police began an investigation into allegations that could have resulted in criminal charges. It is immaterial that no charges were laid, because the presumption only requires that there be an investigation into a possible violation of law.<sup>12</sup> As a result, I find that the presumption against disclosure in section 14(3)(b) applies and that disclosure of the information at issue is presumed to constitute an unjustified invasion of the affected parties' personal privacy.

*Do any factors in section 14(2) apply?*

[37] The police argue that the factor in section 14(2)(h) applies and weighs against disclosure of the information.

*Section 14(2)(h): supplied in confidence*

[38] The police submit that the affected parties provided their statements to the police with the expectation that they would remain confidential.

[39] For the factor at section 14(2)(h) to apply, both the individual supplying the information and the recipient must have an expectation that the information would be

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<sup>11</sup> Although I have reviewed the appellant's representations in their entirety, I have only summarized those portions of her representations that are relevant to the issues in dispute. I have not summarized the appellant's representations regarding what she describes as the police's delays in processing her request.

<sup>12</sup> Orders P-242 and MO-2235.



treated confidentially and that this expectation is reasonable in the circumstances. As such, section 14(2)(h) requires an objective assessment of the reasonableness of the expectation of confidentiality.<sup>13</sup>

[40] I find that this factor applies in the circumstances and weighs against disclosure. In my view, the context of the affected party's statements to the police, especially where they do not contain the appellant's personal information, and the surrounding circumstances, are such that a reasonable person would expect that the information supplied to the police by the affected parties in the records would be subject to a degree of confidentiality. I have reviewed the statements at issue and, while I have not summarized those statements because to do so would disclose contents of the information at issue, I accept the police's submission that they were provided in circumstances where there existed a reasonable expectation of confidentiality. The statements describe the affected party's views and opinions of their own conduct.

[41] As noted above, the appellant challenges the redaction of some of the pages in the record in their entirety. Apart from dates and some police information, the police have withheld pages 3, 4 and 5 of the record.<sup>14</sup>

[42] I have reviewed pages 3, 4 and 5. These pages contain email correspondence exchanged between an affected party and the investigating officer. Pages 4 and 5 contain the entire text of the affected party's email to the investigating officer. Page 3 and a portion of page 4 contain the investigating officer's response to the affected party. This response refers to information provided in the affected party's originating email.

[43] The remaining information at issue, on pages 8 and 9 of the report, contains information about affected parties, and includes statements made by an affected party to the police.

[44] With respect to pages 3, 4, and 5, I find that it is reasonable to expect that the affected party emailed the police with an expectation of confidentiality. This communication is made directly to the investigating officer, in response to the officer's call regarding the incident under investigation. In it, the affected party describes her own conduct and her views of the events under investigation, and provides information about another affected party. The officer's email responds directly to the affected party's email and, if disclosed, would in my view reveal the contents of the original email. Given the circumstances, the nature and the contents of both the original email and the investigating officer's response, I am satisfied that they were exchanged under circumstances where there was an implicit, and in the circumstances reasonable, expectation that the affected party's correspondence with police was confidential.

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<sup>13</sup> Order PO-1670.

<sup>14</sup> Page 5 only contains information on the top half of the page.

[45] I find that the same is true with respect to the affected parties' statements made to police and withheld from portions of pages 8 and 9 of the record, which contain an affected party's views and opinions expressed to the police about the incident under investigation, and information relating to another affected party.

[46] I therefore find that in the context of this appeal, the factor at section 14(2)(h) is a relevant consideration that weighs against disclosure.

[47] The appellant has not submitted that any factors, either those listed in section 14(2) or unlisted, apply to weigh in favour of disclosure and I find that none do.

[48] Accordingly, for the reasons set out above, I find that the presumption in section 14(3)(b) and the factor in section 14(2)(h) apply to the information at issue, and that no factors in favour of disclosure apply. Having considered and weighed the factors and presumptions in sections 14(2) and (3), and balanced the interests of the parties, I find that disclosure of the withheld information would constitute an unjustified invasion of the affected parties' personal privacy under section 38(b).

**Issue C: Should the police's exercise of discretion under section 38(b) be upheld?**

[49] The section 38(b) exemption is discretionary and permits an institution to disclose information despite the fact that it could withhold it. An institution must exercise its discretion. On appeal, I may determine whether the institution failed to do so. I may also determine whether an institution erred in its exercise of discretion, did so in bad faith or for an improper purpose, or whether it failed to take into account relevant considerations in the exercise of its discretion.

[50] While I may send the matter back to the institution for an exercise of its discretion based on proper considerations,<sup>15</sup> I may not, however, substitute my own discretion for that of the institution.<sup>16</sup>

[51] Relevant considerations may include, but are not limited to, those listed below:<sup>17</sup>

- the purposes of the *Act*, including that information should be available to the public
- exemptions from the right of access should be limited and specific
- the wording of the exemption and the interests it seeks to protect

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<sup>15</sup> Order MO-1573.

<sup>16</sup> Section 43(2) of the *Act*.

<sup>17</sup> Orders P-244 and MO-1573.

- whether the requester has a sympathetic or compelling need to receive the information
- whether the requester is an individual or an organization
- 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.

### ***Representations***

[52] The police submit that, in deciding to withhold the information at issue, they considered the privacy rights of the individuals involved; the appellant's right of access to her own personal information; whether the information was supplied in confidence; that consent was not obtained from the affected parties; and, the relationship between the appellant and the affected parties.

[53] The appellant did not address the police's exercise of discretion, except to say that it was not exercised properly because the police failed to demonstrate that pages redacted in their entirety qualify for exemption under section 38(b).

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

[54] As noted above, the IPC is entitled to consider whether the police did, in fact, properly undertake an exercise of their discretion, but cannot substitute its own discretion for that of the police. Section 43(2) of the *Act* states:

If the Commissioner upholds a decision of a head that the head may refuse to disclose a record or a part of a record, the Commissioner shall not order the head to disclose the record or part.

[55] In deciding to withhold the information at issue, I find that the police considered the specific circumstances before them, including the need to be transparent, and the appellant's right to have as much information as possible relating to her own interactions with the police. I am satisfied that the police considered the nature of the information at issue, and the circumstances under which it was collected. I find that the police weighed their obligation to give the appellant access to her own personal information against the affected parties' rights to privacy, and withheld personal information relating to the affected parties.

[56] Finally, I am satisfied that the police did not take into account irrelevant factors in exercising their discretion, and there is no evidence before me that the police acted in bad faith. I therefore uphold the police's exercise of discretion to withhold the affected parties' personal information under section 38(b) of the *Act*.

### **Issue D: Did the police conduct a reasonable search for responsive records?**

[57] Because the appellant claims that additional records exist beyond those identified by the police, I must determine whether the police conducted a reasonable search for records responsive to the appellant's request, as required by section 17 of the *Act*.

[58] A reasonable search is one in which an experienced employee knowledgeable in the subject matter of the request expends a reasonable effort to locate records that are reasonably related to the request.<sup>18</sup> If I am satisfied that the search carried out was reasonable in the circumstances, I will uphold the institution's decision. If I am not satisfied, I may order further searches.

[59] Although a requester will rarely be in a position to indicate precisely which records the institution has not identified, the requester still must provide a reasonable basis for concluding such records exist.<sup>19</sup>

### ***Representations***

#### *The police's representations*

[60] The police submit that the request was clear and understandable and did not require clarification. Because the analyst who conducted the searches was unavailable to respond to this appeal, the police provided an affidavit sworn by a senior analyst who reviewed the original analyst's searches and who, in his affidavit, described the police's various searches for responsive records.

[61] According to this affidavit, the police performed searches of their records management database using the appellant's name, her date of birth, and her address. The police submit that their searches identified occurrences relating to the appellant, and identified the officers involved in each occurrence. Those officers who did not have any notes or records attached to a report for an occurrence in which they were involved were contacted to provide any and all notes/records they had for any of the identified occurrences.

[62] The police's affidavit sets out the names of seven officers contacted, the occurrence in which they were involved (by occurrence number), and the result of the analyst's inquiry regarding the officers' notes. Notes of six of the seven officers contacted are described as already attached to a report, or as provided. The police also noted two instances where no officer notes were available. With respect to the seventh officer contacted, Constable W, the police's affidavit states, "Unable to confirm existence of Notes." The police's representations on search do not otherwise address the matter of Constable W's notes.

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<sup>18</sup> Orders M-909, PO-2469 and PO-2592.

<sup>19</sup> Order MO-2246.

*The appellant's representations*

[63] The appellant submits that her request was clear and understandable. She says that the fact that the police disclosed some information in response to her request in their initial decision and subsequent (supplementary) decisions over an extended period of time demonstrates that their search was unreasonable.

[64] The appellant submits that the police have not provided evidence to demonstrate that they made a reasonable effort to locate Constable W's notes. The appellant submits that Constable W's notes "either exist or do not exist" and that it "is unreasonable and there is no reason that [the police] could not confirm the existence of [Officer W's] notes for more than two years."

***Analysis and findings***

[65] I am satisfied that the police conducted a reasonable search for records responsive to the appellant's request, with the exception of the notes of the seventh officer contacted for notes, Constable W.

[66] Overall, the police's representations demonstrate that an experienced employee, knowledgeable in records related to the subject matter of the request, made reasonable efforts to locate all responsive records. The police conducted searches for responsive records using different search parameters to locate "all reports" relating to the appellant, and provide details relating to the purging in 2018 of two occurrence reports in accordance with the police's retention schedules.

[67] The appellant's request, however, is also for access to "all information related to me in the police officers' notebooks." As set out in their representations above, the police's searches identified the officers involved in each occurrence relating to the appellant. Those whose notes were not attached to an occurrence report were contacted. In their affidavit, the police identify seven officers who were contacted regarding their notes, and describe the result of those inquiries. As also noted above, for the first six officers listed, the affidavit states either that no notes are available, or that notes were provided and/or are attached to the relevant report.

[68] With respect to the seventh officer listed, Constable W, the affidavit states:

vii. [Occurrence 18-...231] – [Cst W] – Unable to confirm existence of Notes

[69] The *Act* does not require the police to prove with absolute certainty that further records do not exist. However, the police must provide sufficient evidence to show that

they made a reasonable effort to identify and locate responsive records.<sup>20</sup>

[70] I find that the police have not provided sufficient evidence to demonstrate that they have conducted a reasonable search for Constable W's notes. The police have provided no details regarding any subsequent search for Constable W's notes, including what, if any, additional steps they took to determine the existence of Constable W's notes and locate them.

[71] In the Notice of Inquiry sent to the police, I asked the police to respond to a number of questions relating to their search efforts, including the following:

Please provide details of any searches carried out including: by whom were they conducted, what places were searched, who was contacted in the course of the search, what types of files were searched and finally, what were the results of the searches? Please include details of any searches carried out to respond to the request.

[72] In that same Notice, I wrote that:

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

[73] The police's affidavit is unclear who – whether the police or Constable W – cannot confirm the existence of Constable W's notes. Besides sending an email to Constable W, the affidavit does not reveal that any further steps were taken to locate or determine the existence of Constable W's notes. The police's representations give no indication whether such notes exist (as they do with respect to the six other officers contacted), or whether they did exist but were destroyed.

[74] Based on the statement, "Unable to confirm existence of Notes," and in the absence of any evidence of any additional efforts made to locate or determine the existence of Constable W's notes, there is an insufficient basis to conclude that the police conducted a reasonable search for Constable W's notes. I therefore order the police to conduct a further search for Constable W's notes in accordance with my findings above, and with the order provisions below.

## **ORDER:**

1. I uphold the police's decision to withhold the personal information at issue under section 38(b) of the *Act*.

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<sup>20</sup> Orders P-624 and PO-2559.

2. I order the police to conduct a further search for both electronic and physical notes and/or notebook entries made by Constable W relating to the occurrence report identified in part as General Occurrence 18-...231.
3. I order the police to issue an access decision to the appellant with respect to any further responsive records located as a result of the search ordered in provision 2, in accordance with the *Act*, taking into consideration the notice provisions under section 21(1). The police shall treat the date of this order as the date of the request.
4. I order the police to provide me with a copy of the decision sent to the appellant in accordance with order provision 3.
5. The police shall send their representations on the new search referred to in provision 2 and an affidavit setting out the following, by **March 26, 2021**:
  - a. the names and positions of the individuals who conducted the searches;
  - b. information about the types of files searched, the nature and location of the search, and the steps taken in conducting the search;
  - c. the results of the search; and
  - d. details of whether the record could have been destroyed, including information about record maintenance policies and practices such as retention schedules.

The police's representations will be shared with the appellant, unless there is an overriding confidentiality concern. The procedure for submitting and sharing representations is set out in IPC's Practice Direction Number 7, which is available on the IPC's website. The police should indicate whether they consent to the sharing of their representations with the appellant.

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

Jessica Kowalski  
Adjudicator

February 24, 2021 \_\_\_\_\_