

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER PO-4146

Appeal PA18-269

Ministry of the Solicitor General

May 13, 2021

Summary: The appellant sought access to various records of his interactions with the OPP. In response to the appellant's six access requests, the ministry granted him partial access to the responsive records, relying on the discretionary exemptions in sections 49(a) (discretion to refuse access to requester's own personal information) and 49(b) (personal privacy) of the *Freedom of Information and Protection of Privacy Act* to deny access to the remaining records and information. The ministry also withheld some information in the records on the basis that it is not responsive to the appellant's requests. The appellant then sought access to all of the withheld records and information by way of an appeal, and asked that the reasonableness of the ministry's search for records and the correction of his records be added as issues in the appeal.

In this order, the adjudicator upholds the ministry's decision to deny access, under section 49(b) of the *Act*, to the personal information of the appellant's former spouse and other affected parties contained in part of an occurrence summary and in certain police officers' notes. She also upholds the ministry's decision to deny access completely, under section 49(b), to a supplementary occurrence report, witness statement and videotaped interview relating to a domestic dispute because disclosure of the affected parties' personal information would constitute an unjustified invasion of personal privacy. She also upholds the ministry's decision to withhold police operational codes under section 49(a), in conjunction with section 14(1)(l) (commission of an unlawful act or control of crime), and parts of the records on the basis that they are not responsive to the appellant's request. Finally, the adjudicator upholds the reasonableness of the ministry's search for records and its denial of the appellant's correction request.

Statutes Considered: *Freedom of Information and Protection of Privacy Act* sections 2(1) (definition of "personal information"), 14(1)(l), 21(3)(b), 47(2)(a), 49(a) and 49(b).

Orders and Investigation Reports Considered: Orders P-242, P-624, P-1618, PO-2559, PO- 3013, PO-3742, MO-2235 and MO-2954.

Cases Considered: *Ontario (Attorney General) v. Fineberg*, 1994 CanLII 10563 (ON SC).

OVERVIEW:

[1] This appeal determines the appellant's right to access records relating to his interactions with the Ontario Provincial Police (OPP or the police) that involve affected parties, including his former spouse. The Ministry of the Solicitor General (the ministry) received six requests from the appellant under the *Freedom of Information and Protection of Privacy Act* (the *Act*) for access to specific OPP records from 1998 to 2013, and issued six decisions granting the appellant partial access. The ministry relied on the discretionary exemptions in section 49(a) (discretion to refuse access to requester's own personal information), with section 14(1)(l) (law enforcement), and in section 49(b) (personal privacy) to withhold information and records, and it withheld some information in the records that it deemed not responsive to the requests.

[2] After receiving the ministry's access decisions, the appellant confirmed that he did not wish to appeal the decisions for Requests #4 and #6. He then appealed the decisions for Requests #1, #2, #3 and #5, as described below, to the Information and Privacy Commissioner of Ontario (IPC).

[3] In Request #1, the appellant sought access to a specified male OPP officer's dashcam footage during a police response to a specific 911 call, and the name of the female OPP officer who attended with the male officer, along with her notes and dashcam footage. The appellant also sought access to the text of the audio of the male officer receiving information to delete files from the appellant's recording device. The ministry granted the appellant partial access to the male OPP officer's notes and advised him that no dashcam video records exist. The appellant then sought full access to the officer's handwritten notes, including the parts withheld as non-responsive, and the female officer's name and notes, and he appealed only these aspects of the police's decision for Request #1. He accepted that no dashcam video or audio file records exist.

[4] In Request #2, the appellant sought access to two complete interviews of his former spouse, conducted by a named OPP officer, and asked for a transcript of the interviews. The ministry issued a decision denying access to the two witness statements it identified as responsive. The appellant then sought access to the complete witness statements and asserted that a video recording of them ought to exist.

[5] In Request #3, the appellant sought access to records from the "Kingston OPP" regarding a 911 call made in June 1998 involving a firearm at a specific address. He stated that he wants to review all records "in his file" for accuracy. The ministry's decision stated that no records responsive to Request #3 exist within the OPP. The appellant was dissatisfied with this decision and appealed it, arguing that the OPP did

not conduct a reasonable search for records.

[6] In Request #5, the appellant sought the name of the OPP officer who attended his home to review the evidence he had gathered to bring charges against his accuser. The appellant provided the first name of the officer and said that the year was 2011, 2012 or 2013. The ministry provided partial access to the responsive occurrence summary report. The appellant then sought full access to the occurrence summary, including the parts withheld as non-responsive, and argued that additional responsive records ought to exist.

[7] The IPC attempted to mediate the appeal. During mediation, the ministry considered the appellant's concerns about the reasonableness of its search and reviewed his requests. The ministry then issued a supplementary access decision, disclosing the name of the female officer sought by the appellant in Request #1, and denying access to a videotaped interview it located in response to Request #2. The ministry relied on the discretionary exemptions in section 49(a), with section 14(1)(l) (law enforcement), and in section 49(b) (personal privacy) of the *Act* to withhold the videotaped interview. Also during mediation, the appellant asked that the correction of records, under section 47(2)(a) of the *Act*, be added as an issue in dispute in the appeal.

[8] A mediated resolution of the appeal was not possible and the appeal was transferred to the adjudication stage of the appeal process. An IPC adjudicator commenced an inquiry in this appeal, inviting and receiving representations from the ministry and the appellant. The adjudicator did not notify any of the affected parties of the appeal. The appeal was then transferred to me to complete the inquiry. I also did not notify any of the affected parties. In this order, I uphold the ministry's decision and dismiss the appeal.

RECORDS:

[9] The records at issue are:

- handwritten officers' notes responsive to Request #1 (pages 1 to 4)
- a 2009 Supplementary Occurrence Report (pages 5 to 7) regarding a domestic dispute, and a 2009 Witness Statement (pages 8 and 9) and videotaped interview of the appellant's former spouse, all responsive to Request #2
- a 2013 Occurrence Summary (page 10) relating to the appellant's call to the OPP, responsive to Request #5.

ISSUES:

- A. Does the discretionary personal privacy exemption at section 49(b) of the *Act* apply to the records and information withheld under that section?
- B. Does the discretionary exemption at section 49(a), in conjunction with section 14(1)(l), apply to the withheld police codes?
- C. Did the ministry exercise its discretion under sections 49(a) and 49(b) appropriately?
- D. Did the ministry conduct a reasonable search for responsive records?
- E. Are the parts of the records withheld as non-responsive, responsive to the appellant's requests?
- F. Should the ministry correct personal information in the records under section 47(2)(a)?

DISCUSSION:

A. Does the discretionary personal privacy exemption at section 49(b) of the *Act* apply to the records and information withheld under that section?

[10] The ministry has withheld most of the information in the records at issue, claiming that the records contain personal information that is exempt from disclosure under section 49(b) of the *Act*. Section 49(b), the discretionary personal privacy exemption, permits the ministry to refuse to disclose personal information to an individual to whom the information relates where the disclosure would constitute an unjustified invasion of another individual's personal privacy.

Personal information

[11] Section 49(b) can only apply to "personal information," which is defined in section 2(1) of the *Act* as "recorded information about an identifiable individual" including information that fits within the non-exhaustive list at paragraphs (a) to (h) of the definition in section 2(1) of the *Act*. Paragraphs (a), (b), (c), (d), (e), (g) and (h) of the definition of "personal information" are relevant in this appeal. They define "personal information" as:

- (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 where they relate to another individual,

(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[.]

[12] The ministry submits that the information and records it has withheld mostly contain the personal information of a complainant, including the complainant's address, telephone number and statements to the police, and the personal information of other affected individuals. It adds that due to the nature of the records, involving an OPP investigation where the appellant knows the complainant and the affected parties, it is reasonable to expect that the complainant and other affected individuals would be identifiable even if identifying information, like names, were removed from the records.

[13] The ministry states that the records also contain a Workplace Identification Number (WIN), an identifier belonging to an OPP employee (Computer Assisted Dispatch Operator) that qualifies as personal information. The ministry explains that a WIN is an assigned number that would reveal something of a personal nature about an employee when linked with the employee's name, which has been disclosed in this appeal. In support of its argument that a WIN identifier qualifies as an employee's personal information, the ministry relies on Order PO-3742 at paragraph 37.

[14] In his representations, the appellant does not directly address this issue. However, his representations convey his assumption that the records contain his personal information.

[15] On my review of the records, I find that they contain recorded information about the appellant and identifiable affected parties that fits within paragraphs (a), (b), (c), (d), (e), (g) and (h) of the definition of "personal information" in section 2(1) of the *Act*. Because the records contain the personal information of the appellant and affected parties, the appellant's access to the records must be determined under section 49(b) of the *Act*.

Section 49(b)

[16] Section 49 provides a number of exemptions from an individual's general right under section 47(1) to access their own personal information held by an institution. Under section 49(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 ministry may refuse to disclose that information to the appellant. Since the section 49(b) exemption is discretionary, the ministry may also decide to disclose the information to the appellant.

[17] In determining whether disclosure of the withheld information in the records would be an unjustified invasion of personal privacy, sections 21(1) to (4) provide guidance. If the information fits within any of paragraphs (a) to (e) of section 21(1), or if any of the situations listed under section 21(4) applies, disclosure is not an unjustified invasion of personal privacy and the information is not exempt under section 49(b). There is no suggestion that any of these exceptions in sections 21(1) and 21(4) applies in this appeal and I find that none does.

[18] Sections 21(2) and (3) also help in determining whether disclosure would or would not be an unjustified invasion of personal privacy under section 49(b). If any presumption in paragraphs (a) to (h) of section 21(3) applies, disclosure of the information is presumed to be an unjustified invasion of personal privacy under section 49(b). The ministry claims that the presumption in paragraph (b) of section 21(3) applies to the records at issue in this appeal. Section 21(3)(b) states:

21(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[.]

[19] 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.¹ In determining whether disclosure of the personal information in the records would constitute an unjustified invasion of personal privacy under section 49(b), the IPC considers and weighs factors and presumptions in sections 21(2) and (3) and balances the interests of the parties.²

¹ Order P-239.

² Order MO-2954.

The ministry's representations

[20] The ministry submits that disclosure of the withheld records would presumptively constitute an unjustified invasion of the personal privacy of the complainant and other affected parties under section 21(3)(b) of the *Act*, because they were prepared by the OPP as part of a law enforcement investigation associated with a complaint.

[21] The ministry adds that the personal information in the records is highly sensitive and the factor weighing against disclosure in section 21(2)(f) applies to it. The ministry argues that disclosure of this personal information could reasonably be expected to cause significant personal distress due to the nature of the information and its collection as part of an OPP law enforcement investigation. In support of its argument, the ministry relies on the finding in Order P-1618 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).

[22] The ministry also argues that there is an inherent public interest in shielding sensitive affected party information contained in law enforcement records, particularly where affected parties have not consented to disclosure and are not even aware that their personal information is subject to disclosure, which is the case in this appeal since the affected parties have not been notified.

[23] Regarding the absurd result principle, the ministry argues that it is not clear how much knowledge the appellant has of the contents of the records. Nonetheless, it submits that the absurd result principle does not apply because disclosure would be inconsistent with the fundamental purpose of the exemption—to protect the privacy of the affected parties whose personal information has been collected as part of an OPP law enforcement investigation. In support of its position, the ministry stresses the particular sensitivity inherent in records compiled in a law enforcement context, as recognized in Order PO- 3013 at paragraph 68, which ruled against applying the absurd result principle to authorize the disclosure of personal information contained in sensitive records.

The appellant's representations

[24] The appellant asserts that he knew the name, phone number and address of the affected individuals, alluding to the absurd result principle. In the remainder of his representations on this issue, the appellant criticizes various actions taken by the police regarding his domestic dispute and subsequent family court matter involving his former spouse, and alleges that his former spouse lied in statements she provided to the police.

[25] Regarding his family court matter, the appellant alleges that his former spouse lied to the court resulting in him "losing" in the division of his matrimonial assets. The appellant also alleges that the police committed multiple Criminal Code offences in their investigation of him and their handling of the records, including "evidence tampering."

Finally, the appellant states that the police's failure to disclose the complete videotaped interview of his former spouse to the Crown years earlier during his court proceedings caused him to endure significant personal, financial and familial consequences.

Analysis and findings

[26] Section 49(b) permits the ministry to refuse to disclose to the appellant personal information about him if the disclosure would constitute an unjustified invasion of another individual's personal privacy. Having reviewed the records at issue, which were all compiled and are identifiable as part of the OPP's investigations into possible violations of law, I am satisfied that disclosure of the withheld affected parties' personal information is presumed to be an unjustified invasion of personal privacy under section 21(3)(b), and therefore, section 49(b) applies.

[27] The section 21(3)(b) presumption only requires that there be an investigation into a possible violation of law.³ The appellant's and the affected parties' personal information in the handwritten police officers' notes, Occurrence Summary, Supplementary Occurrence Report, witness statement and videotaped interview was compiled and is identifiable as part of investigations into a possible violations of law, namely, Criminal Code offences. This is sufficient to engage the presumption.

[28] Considering the context and contents of the records, I also agree with the ministry that the factor in section 21(2)(f) applies. The personal information of the affected parties in the records concerns a domestic dispute in which the police were called for assistance. This personal information is inherently highly sensitive and its disclosure could reasonably be expected to cause the affected parties significant distress.

[29] The appellant does not mention any of the section 21(2) factors in his representations. While his allegations about the OPP's conduct and about his former spouse's statements to the OPP could be considered relevant to the factors in sections 21(2)(a) (public scrutiny) and 21(2)(g) (inaccurate or unreliable), the appellant's representations do not establish that either of these factors applies. His allegations against the police all appear to arise from his dissatisfaction with the outcome of various court proceedings in which he was involved and represented by legal counsel. The appellant's unsupported allegations against the OPP do not explain why disclosure of the affected parties' personal information is desirable for subjecting the OPP's activities to public scrutiny, or how disclosure of the specific information at issue would achieve that.

[30] In support of his allegations that his former spouse lied to the OPP, the appellant

³ Orders P-242 and MO-2235.

provides highlighted transcripts of her cross-examination in his concluded family court matter and various other documents that he argues prove his position. These supporting documents and allegations of the appellant do not address the withheld personal information in the records at issue. These allegations do not persuade me that the personal information in the records is unlikely to be accurate or reliable such that the factor in section 21(2)(g) applies. Furthermore, the appellant has not raised anything in his representations that could qualify as an unlisted factor favouring disclosure.

The absurd result principle does not apply

[31] The absurd result principle, relied on by the appellant, has been applied by the IPC in situations where a requester originally supplied the information or is otherwise aware of it. In such situations, the IPC has found that the information may not be exempt under section 49(b) because to withhold it would be absurd and inconsistent with the purpose of the exemption.⁴ I agree with the ministry that the absurd result principle does not apply in this appeal. There is no evidence before me that the appellant is aware of the withheld information in the records relating to the affected parties. As well, the appellant has been granted access to the information in the Occurrence Summary that he provided to the police. In these circumstances, withholding the personal information of the affected parties is not absurd or inconsistent with the purpose of section 49(b)—prevention of an unjustified invasion of the personal privacy of affected parties through disclosure of personal information to an individual exercising their access rights under section 47(1) of the *Act*.

The discretionary personal privacy exemption applies to the information and records withheld under it

[32] I have found above that disclosure of the personal information in the records is presumed to constitute an unjustified invasion of the personal privacy of the affected parties under section 21(3)(b) and that the factor in section 21(2)(f) applies and weighs in favour of privacy protection. I have also found that no factors weighing in favour of disclosure apply. I have also considered the appellant's right of access under section 47(1) of the *Act* and the ministry's disclosure to him of the personal information in the Occurrence Summary that he provided.

[33] Weighing the appellant's right of access against the presumed unjustified invasion of personal privacy that would result from disclosure of the highly sensitive personal information of the affected parties in the records, I find that section 49(b) applies to the withheld records and information. I uphold the ministry's decision to withhold the affected parties' personal information in the records, subject to my

⁴ Orders M-444 and MO-1323.

consideration of the ministry's exercise of discretion below.

B. Does the discretionary exemption at section 49(a), in conjunction with section 14(1)(l), apply to the withheld police codes?

[34] The ministry claims that the police codes it has withheld in parts of the records are exempt under section 49(a) in conjunction with section 14(1)(l). These sections state:

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

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

14(1) A head may refuse to disclose a record where the disclosure could reasonably be expected to,

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

The parties' representations

[35] The ministry submits that it has applied the law enforcement exemption in section 14(1)(l) to protect the integrity and confidentiality of police operational codes, namely, ten codes and patrol zone codes, where they appear in the officer's handwritten notes at page 1 of the records and the Occurrence Summary at page 10 of the records. It states that it did so in consideration of the principle cited in *Ontario (Attorney General) v. Fineberg*, 1994 CanLII 10563 (ON SC) that the law enforcement exemption must "be approached in a sensitive manner, recognizing the difficulty of predicting future events in a law enforcement context."

[36] The ministry states that it withheld the codes in accordance with its usual and longstanding practice, which is based on the concern that their disclosure could make it easier for individuals carrying out criminal activities to learn how internal communications systems operate within the OPP. The ministry maintains that disclosure of the withheld codes could jeopardize the security of law enforcement and the safety of the OPP staff identified by them. It concludes by stating that it relies on a large body of IPC jurisprudence that has repeatedly upheld these codes as exempt under section 14(1)(l) on the basis of a reasonable expectation of harm were they to be disclosed, including Order PO-3742.

[37] In his representations, the appellant alleges a "cover-up" in respect of the withheld codes. He then states that he would accept the police codes being withheld if the ministry were required to replace them with written definitions of the codes and a document that identifies where the codes have been withheld. He concludes by

asserting that the police do not have any valid reason to believe that he has carried out or would carry out any criminal activity.

Analysis and finding

[38] As noted in Order PO-3742, relied on by the ministry, a long line of IPC orders has found that police operational codes qualify for exemption under section 14(1)(l) because of the reasonable expectation of harm to law enforcement interests from their disclosure. I make the same finding here.

[39] I also note, for the appellant's benefit, that the withheld police codes appear in the Occurrence Report at page 10 of the records, which has been disclosed to him, in part. Specifically, the codes appear in the withheld passages under the headings "Involved Person(s)" and "Involved Address(es)."

[40] Consonant with IPC jurisprudence and subject to my consideration of the ministry's exercise of discretion below, I uphold the ministry's decision to withhold these police codes under section 49(a), in conjunction with section 14(1)(l) of the *Act*.

C. Did the ministry exercise its discretion under sections 49(a) and 49(b) appropriately?

[41] The section 49(a) and 49(b) exemptions are discretionary and permit the ministry to disclose information, despite the fact that it could withhold it. The ministry must exercise its discretion having regard to the principles of the *Act* and considerations that are relevant in this appeal. Relevant principles and considerations may include:

- the principles that individuals should have a right of access to their own personal information and that exemptions from the right of access should be limited and specific
- the wording of the exemption and the interests it seeks to protect
- 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 parties' representations

[42] The ministry submits that it acted appropriately in exercising its discretion to withhold the records at issue. It states that it acted in accordance with its usual practices of withholding police codes that have been consistently upheld by IPC orders as exempt from disclosure under section 14(1)(l). The ministry maintains that the records overwhelmingly contain personal information belonging to affected parties that is subject to the mandatory presumption against disclosure in section 21(3)(b). The ministry concludes by submitting that it properly severed the records by disclosing to the appellant as much information as possible while withholding only exempt information.

[43] The appellant does not directly address this issue in his representations. However, he argues, generally, that he should have full access to the records because they relate to him and they have significantly affected his life. The appellant also states that the ministry is “out of line” and this should be taken into account in this appeal, as should the police’s actions in bankrupting him “on false pretenses.”

Analysis and finding

[44] My authority on this issue is limited to deciding whether the ministry failed to exercise its discretion or if it erred in exercising its discretion where, for example: it did so in bad faith or for an improper purpose; it took into account irrelevant considerations; or it failed to take into account relevant considerations. Although the appellant argues that the ministry exercised its discretion inappropriately, the evidence does not support his argument. On my review of the records, I confirm that the ministry granted the appellant access to as much information as possible while withholding sensitive personal information belonging to the affected parties and confidential OPP operational codes.

[45] I am satisfied that, in deciding to withhold the affected parties’ personal information and the police operational codes, the ministry exercised its discretion appropriately. It considered the appellant’s right of access to his own personal information, the wording of the exemptions, and the nature of the information and its significance and sensitivity to the affected parties, the appellant and the ministry. These are all relevant considerations. In addition, I have upheld the ministry’s decision to withhold the personal information of the affected parties under section 49(b) and the police codes under section 49(a), in conjunction with section 14(1)(l). In these circumstances, there is no basis for me to interfere with the ministry’s exercise of discretion on appeal and I uphold it.

D. Did the ministry conduct a reasonable search for responsive records?

[46] The appellant challenges the search conducted by the ministry for records responsive to Requests #3 and #5. To establish that it conducted a reasonable search for responsive records, the ministry must provide sufficient evidence to show that it has made a reasonable effort to identify and locate responsive records.⁵ The IPC has consistently held that to be responsive to the request, records must “reasonably relate” to the request.⁶ 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.⁷

⁵ Orders P-624 and PO-2559.

⁶ Order PO-2554.

⁷ Orders M-909, PO-2649 and PO-2592.

[47] In support of its submission that it conducted a reasonable search for responsive records, the ministry provides an affidavit from a Detachment Administrative Clerk for the OPP. The affiant attests that:

- She is responsible for responding to access requests under the *Act* and is familiar with the record searches conducted in response to the appellant's requests.
- She began by searching the appellant's name in Niche, the electronic database for OPP records, which revealed that there was one responsive record from 2009 that was not contained in Niche.
- She then contacted the OPP officer formerly in charge of the investigation (the OIC) and, at his suggestion, searched various storage locations around the detachment. She located a copy of the 2009 record in audio format and continued searching to find out if the record existed in video format, as requested.
- She then ordered the OIC's notes from archives and reviewed them.
- The OIC then attended the detachment and found the investigative binder. She then found another record from 2009 in video format in the investigative binder.
- She did not locate any records responsive to Request #3, which relates to an address in Kingston—a jurisdiction that is served by its own police service and not by the OPP.
- The officer named by the appellant in Request #3 was not an OPP officer in 1998 and, thus, could not have responded to the incident as alleged by the appellant.

[48] In its representations, the ministry states that because Request #3 is for records relating to an address in the City of Kingston, which is served by the Kingston Police Service, any records relating to it, if any exist, would be in the custody of the Kingston Police Service. Regarding the appellant's position that additional records ought to exist in response to Request #5, the ministry argues that the appellant has not identified which records "ought to exist" and why he has reached this conclusion.

[49] The appellant asserts that the police are lying. He states that he already made a request to the Kingston Police Service and he was told that they had no responsive records. He then argues, "It was the responsibility of the IPC to direct [him] where to apply for it." He argues that "the records ought to exist because there was a file number" for them and he demands an explanation as to why they do not exist. The appellant's representations also question why there was no formal written report "for this so called investigation that involved attempted murder, perjury and extortion."

Analysis and finding

[50] Having considered the parties' representations, I am satisfied by the affidavit evidence that the ministry conducted a reasonable search for records. The affidavit evidence provided by the ministry establishes that an experienced employee knowledgeable in the subject matter of the request expended a reasonable effort to locate records that are reasonably related to the appellant's requests.

[51] The *Act* does not require the ministry to prove with absolute certainty that further records do not exist. The ministry need only provide sufficient evidence to show that it has made a reasonable effort to identify and locate responsive records.⁸

[52] Although a requester will rarely be in a position to indicate precisely which records the institution has not identified, the requester still must provide a reasonable basis for concluding that such records exist.⁹ In the circumstances of this appeal, the appellant has not provided a reasonable basis for his belief that additional records exist that have not been located by the ministry. I do not accept the appellant's submission that the police are lying, or that the IPC was responsible for telling him where to access records that two institutions have told him do not exist. The appellant's arguments, again, consist mainly of unsupported allegations of police misconduct, over which I have no authority. I uphold the ministry's search for records responsive to Requests #3 and #5 as reasonable.

E. Are the parts of the records withheld as non-responsive, responsive to the appellant's requests?

[53] As stated above, to be responsive to the appellant's requests, the records must reasonably relate to it. The ministry has withheld portions of the records on the basis that they are not responsive to the appellant's requests. Although the responsiveness of the records was included in the Notice of Inquiry sent to the parties, neither the ministry nor the appellant directly address it in their representations. Nonetheless, I have reviewed the records and I confirm that certain information withheld by the ministry as not responsive to the requests, is in fact not responsive.

[54] Specifically, I find that the first three lines of handwritten notes at the top of page 3 and the last three lines of handwritten notes at the bottom of page 4 of the records, are about different incidents involving individuals unrelated to the appellant or the affected parties, and are not responsive to the appellant's requests.

[55] I also find that the single line at the bottom of pages 5 to 10, and the line withheld at the top of page 10 of the records that contain printing information for each

⁸ Orders P-624 and PO-2559.

⁹ Order MO-2246.

record, including the device number, date and computer identification number, are not responsive to the appellant's requests. Accordingly, I uphold the ministry's decision to withhold these parts of the records as not responsive.

F. Should the ministry correct personal information in the records under section 47(2)(a)?

[56] Section 47(2)(a) gives the appellant the right to ask the ministry to correct his personal information. It states:

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

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

[57] In his representations, the appellant states that he respectfully requests "these corrections to the record be made first off to establish the integrity of those [he is] seeking [his personal] information from." He then points me to highlighted information stated by his former spouse and contained in court transcripts he submits with his representations.

Analysis and finding

[58] The appellant's correction request appears to be for information he assumes his former spouse provided to the police that has been withheld in the records at issue. Section 47(2) does not apply in these circumstances. The appellant is only entitled to request the correction of his personal information in the records to which he has been granted access.

[59] Since the appellant has no right under section 47(2) to request the correction of his former spouse's personal information in records to which he has been denied access under the *Act*, I dismiss his correction request.

The appellant seeks remedies that are not available in this appeal

[60] In my consideration of the appellant's representations in their entirety, I note that he provides a long list of remedies he seeks through this appeal. These remedies all relate to his unhappiness with the outcome of his family law matter and seek redress for the serious consequences he says he has endured as a result. I have no authority to grant any of the remedies the appellant seeks. Similarly, I have no authority to address the allegations the appellant makes of police professional misconduct, or his allegations that the police and his former spouse committed various Criminal Code offences. My authority is limited to deciding the appellant's right to access the records at issue under the *Act*.

ORDER:

I uphold the ministry's decision and I dismiss the appeal.

Original signed by: _____

Stella Ball
Adjudicator

_____ May 13, 2021