

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER PO-4310

Appeal PA20-00362

Ministry of the Solicitor General

October 4, 2022

Summary: This order deals with a request made to the Ministry of the Solicitor General (the ministry) under the *Freedom of Information and Protection of Privacy Act* (the *Act*) for records relating to a dog bite incident on a specified date involving the requester as victim, at or around a specified address, as well as past incidents involving the dogs at or around the same address. The ministry located responsive records and granted access to the requester, in part. The ministry denied access to portions of the records, claiming the discretionary exemptions in section 49(a) (discretion to refuse requester's own information), in conjunction with section 14(1)(l) (facilitate commission of an unlawful act), as well as section 49(b) (personal privacy) of the *Act*. In this order, the adjudicator upholds the ministry's decision, in part. In particular, she upholds the exemption in section 49(a), read with section 14(1)(l) to police ten-codes. She finds that some of the personal information of individuals other than the appellant is exempt from disclosure under section 49(b), but that other personal information is not exempt. Lastly, the adjudicator upholds the ministry's exercise of discretion in withholding the information the adjudicator has found to be exempt under sections 49(a) and 49(b). The adjudicator orders the ministry to disclose the non-exempt portions of the records to the appellant.

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

Orders Considered: Orders MO-2871, MO-4244 and PO-3742.

OVERVIEW:

[1] This order disposes of the issues raised as a result of an appeal of an access

decision made by the Ministry of the Solicitor General (the ministry) under the *Freedom of Information and Protection of Privacy Act* (the *Act*). The access request was for records relating to a dog bite incident on a specified date, at or around a specified address, as well as past incidents involving the dogs at or around the same address. The requester is the victim of the alleged dog bite incident.

[2] The ministry located responsive records and granted access to the requester, in part. The ministry denied access to other portions of the records, claiming the discretionary exemptions in section 49(a) (discretion to refuse requester's own information), in conjunction with section 14(1)(l) (facilitate commission of an unlawful act) to police ten-codes, as well as section 49(b) (personal privacy) with reference to section 21(2)(f) and 21(3)(b) of the *Act*. The ministry also advised the requester that portions of the records were not responsive to the request.

[3] The requester, now the appellant, appealed the ministry's decision to the Information and Privacy Commissioner of Ontario (the IPC).

[4] During the mediation of the appeal, the mediator had discussions with the appellant's representative (the appellant), the ministry and two affected parties. The mediator sought consent from the affected parties to the disclosure of their information to the appellant. One affected party provided their consent to disclose some of their personal information in the records. The other affected party did not provide consent to disclose their personal information.

[5] The ministry subsequently issued a supplementary access decision and disclosed those portions of the records for which consent was obtained from the affected party. The ministry continued to deny access to the remaining portions of the records as set out above. The appellant informed the mediator that he was no longer seeking access to the withheld information that the ministry indicated was not responsive to the request. Therefore, that information is no longer at issue in this appeal.

[6] The file was then transferred to the adjudication stage of the appeals process, where an adjudicator may conduct an inquiry. I decided to conduct an inquiry and provided the ministry and the two affected parties, initially, with the opportunity to provide representations, including the affected party who had provided consent during mediation to the disclosure of some information to the appellant. I received representations from the ministry, which were shared with the appellant. I did not receive representations from the affected parties. I then sought representations from the appellant. The appellant advised that he would not be providing representations.

[7] For the reasons that follow, I uphold the ministry's decision, in part. In particular, I uphold the ministry's application of the exemption in section 49(a), read with section 14(1)(l) to the police ten-codes contained in the records. I find that some of the personal information of individuals other than the appellant is exempt from disclosure under section 49(b), but that other personal information is not exempt. Lastly, I uphold

the ministry's exercise of discretion in withholding the information that I found to be exempt under sections 49(a) and 49(b). I order the ministry to disclose the non-exempt portions of the records to the appellant.

RECORDS:

[8] The information at issue is contained in a one-page Occurrence Summary and a three-page General Ontario Provincial Police (OPP) Report.

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 discretionary exemption at section 49(a) read with the law enforcement exemption at section 14(1)(l) apply to the information at issue?
- C. Does the discretionary personal privacy exemption at section 49(b) apply to the personal information at issue?
- D. Did the ministry exercise its discretion under sections 49(a) and 49(b)? If so, should the IPC uphold the exercise of discretion?

DISCUSSION:

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

[9] In order to determine which sections of the *Act* may apply, it is necessary to decide whether the records contain "personal information" and, if so, to whom it relates. That term is defined in section 2(1) as follows:

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

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

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

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

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

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

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

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

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

[10] 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.¹

[11] 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.²

[12] To qualify as personal information, it must be reasonable to expect that an individual may be identified if the information is disclosed.³

Representations

[13] The ministry submits that the records contain the personal information of affected parties including their names, dates of birth, telephone numbers and home addresses. In addition, the ministry submits that this information also relates to communications between the affected parties and OPP officers. The ministry goes on to argue that the records also contain the personal information of two OPP Dispatch Operators, namely their WIN identifier numbers. The ministry relies on Orders PO-3742 and PO-3993 where the IPC found that a WIN identifier qualifies as an employee's

¹ Order 11.

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

³ Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.).

personal information because it is an assigned number, which when linked to the name of the employee (which has been disclosed), would reveal something of a personal nature about the employee.

Analysis and findings

[14] Having reviewed them I find that the records, including the withheld portions, contain the personal information of the appellant and other individuals. In particular, I find that the records contain the appellant's name along with his age and sex, qualifying as his personal information under paragraph (a) of the definition of personal information in section 2(1) of the *Act*, his address and telephone number, qualifying as his personal information under paragraph (d) of the definition, and his name where it appears with other personal information relating to him, qualifying as his personal information under paragraph (h) of the definition.

[15] Regarding individuals other than the appellant, I find that the records contain the names of four individuals, along with their age and sex, qualifying as their personal information under paragraph (a) of the definition of personal information in section 2(1) of the *Act*, their addresses and telephone numbers, qualifying as their personal information under paragraph (d) of the definition, and their names where it appears with other personal information relating to them, qualifying as their personal information under paragraph (h) of the definition.

[16] Finally, regarding the WIN numbers of the OPP Dispatch Operators, I find that these numbers qualify as the personal information of these two employees. In making this finding, I refer to the findings made by Adjudicator Steven Faughnan in Order PO-3742, in which he stated:

I recognize that the information was recorded in the course of the execution of the police employee's professional, rather than their personal, responsibilities. However, I find that disclosure of the WIN number, particularly when taken with the employee's name (which has already been disclosed to the appellant) reveals something of a personal nature about the employee. I find that the undisclosed information represents an identifying number that has been assigned to the employee, who is also identified in the record by name. I also note that the number provides a link to other personal information of the employee, i.e., human resources information. Accordingly, I find that the employee number qualifies as the employee's personal information within the meaning of paragraph (c) of the definition.

[17] I agree with and adopt the approach taken in Order PO-3742 and find that the WIN numbers qualify as the employees' personal information under paragraph (c) of the definition of personal information in section 2(1) of the *Act*.

[18] Having found that the records contain the personal information of six individuals, in addition to the appellant, I will now determine whether the exemptions in sections 49(a) and/or 49(b) apply to the records.

Issue B: Does the discretionary exemption at section 49(a) read with the law enforcement exemption at section 14(1)(l) apply to the information at issue?

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

[20] Section 49(a) reads:

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

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

[21] Section 49(a) of the *Act* recognizes the special nature of requests for one's own personal information and the desire of the legislature to give institutions the power to grant requesters access to their personal information.⁴

[22] Where access is denied under section 49(a), the institution must demonstrate that, in exercising its discretion, it considered whether a record should be released to the requester because the record contains his or her personal information.

[23] In this case, the ministry relies on section 49(a) in conjunction with section 14(1)(l), which states:

(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.

[24] Generally, the law enforcement exemption must be approached in a sensitive manner, recognizing the difficulty of predicting future events in a law enforcement context.⁵

[25] It is not enough for an institution to take the position that the harms under section 14 are self-evident from the record or that the exemption applies simply because of the existence of a continuing law enforcement matter.⁶ The institution must

⁴ Order M-352.

⁵ *Ontario (Attorney General) v. Fineberg* (1994), 19 O.R. (3d) 197 (Div. Ct.).

⁶ Order PO-2040 and *Ontario (Attorney General) v. Fineberg*, cited above.

provide detailed evidence about the potential for harm. It must demonstrate a risk of harm that is well beyond the merely possible or speculative although it need not prove that disclosure will in fact result in such harm. How much and what kind of evidence is needed will depend on the type of issue and seriousness of the consequences.⁷

Representations

[26] The ministry submits that the OPP is a law enforcement agency and that the records were created by the OPP as part of their policing operations. The ministry further submits that it applied the law enforcement exemption in section 14(1)(l) to the “police ten-codes” in the records in order to protect the integrity and confidentiality of its law enforcement activities. The ministry goes on to state:

The Ministry maintains that it has withheld these police codes in accordance with its usual practices, and in particular because disclosure of these codes could make it easier for individuals carrying out criminal activities to have internal knowledge of how OPP communicate with each other using police codes. The Ministry maintains that the disclosure of these codes could jeopardize the security of law enforcement systems and the safety of the OPP staff associated with them.

[27] The ministry also argues that a long line of IPC orders has found that police codes qualify for exemption under section 14(1)(l) because of the reasonable expectation of harm from their disclosure.

Analysis and findings

[28] Numerous orders issued by the IPC have considered the application of the law enforcement exemption in section 14(1)(l) to police-code information.⁸ In Order MO-2871, Adjudicator Diane Smith found that the disclosure of ten-codes could reasonably be expected to facilitate the commission of an unlawful act or hamper the control of crime. She stated:

This office has issued numerous orders with respect to the disclosure of police codes and has consistently found that section 8(1)(l)⁹ applies to “10- codes” (see Orders M-93, M-757, MO-1715 and PO-1665), as well as other coded information such as “900 codes” (see Order MO-2014). These orders adopted the reasoning of Adjudicator Laurel Cropley in Order PO-1665:

⁷ *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)*, 2014 SCC 31 (CanLII) at paras. 52-4.

⁸ The equivalent to section 14(1)(l) in the *Municipal Freedom of Information and Protection of Privacy Act* is section 8(1)(l).

⁹ Section 8(1)(l) of the *Municipal Freedom of Information and Protection of Privacy Act* (the municipal Act) is the equivalent of section 14(1)(l) of the *Freedom of Information and Protection of Privacy Act*.

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...

[29] For the purposes of this appeal, I agree with and adopt these findings that police ten-code information is subject to the exemption at section 14(1)(l) of the *Act*.¹⁰ As previously stated, I have reviewed the records. I find that they clearly contain ten-code information. I accept that disclosure of this type of information has consistently been found to reasonably be expected to facilitate the commission of an unlawful act or hamper the control of crime. I also accept that the disclosure of this information could reasonably be expected to compromise the ability of OPP Officers to provide effective policing services by enabling individuals engaged in illegal activities to conduct such activities. I find that this information is exempt under section 49(a), read with section 14(1)(l) of the *Act*. I will review the ministry’s exercise of discretion below under Issue D.

Issue C: Does the discretionary personal privacy exemption at section 49(b) apply to the personal information at issue?

[30] As I stated above, section 47(1) of the *Act* gives individuals a general right of access to their own personal information held by an institution, and section 49 provides a number of exemptions from this right.

[31] Under section 49(b), where a record contains personal information of both the requester and another individual, and disclosure of the information would be an “unjustified invasion” of the other individual’s personal privacy, the institution may refuse to disclose that information to the requester. Since the section 49(b) exemption is discretionary, the institution may also decide to disclose the information to the requester.

[32] If disclosing another individual’s personal information would not be an unjustified invasion of personal privacy, then the information is not exempt under section 49(b).

Would disclosure be “an unjustified invasion of personal privacy” under section 49(b)?

[33] Sections 21(1) to (4) provide guidance in deciding whether disclosure would be an unjustified invasion of the other individual’s personal privacy. As previously stated, the appellant did not provide representations. In my view, none of the exceptions in section 21(1) would apply in the circumstances of the appeal. In particular, none of the

¹⁰ See also Orders MO-3640, MO-3682, MO-3773, MO-4073 and PO-4017 in which similar findings were made with regard to police ten-codes.

affected parties has consented to the release of their personal information that remains at issue such that section 21(1)(a) would apply.¹¹

Sections 21(2), (3) and (4)

[34] Sections 21(2), (3) and (4) also help in deciding whether disclosure would or would not be an unjustified invasion of personal privacy under section 49(b). Section 21(4) lists situations where disclosure would not be an unjustified invasion of personal privacy, in which case it is not necessary to decide if any of the factors or presumptions in sections 21(2) or (3) apply. None of the situations in section 21(4) apply to the circumstances of the present appeal and I will therefore not consider them any further in this order.

[35] Otherwise, in deciding whether the disclosure of the personal information in the records would be an unjustified invasion of personal privacy under section 49(b), the decision-maker¹² must consider and weigh the factors and presumptions in sections 21(2) and (3) and balance the interests of the parties.¹³

Section 21(2)

[36] Section 21(2) lists several factors that may be relevant to determining whether disclosure of personal information would be an unjustified invasion of personal privacy.¹⁴ Some of the factors weigh in favour of disclosure, while others weigh against disclosure.

[37] The list of factors under section 21(2) is not a complete list. The institution must also consider any other circumstances that are relevant, even if these circumstances are not listed under section 21(2).¹⁵

[38] Each of the first four factors, found in sections 21(2)(a) to (d), if established, would tend to support disclosure of the personal information in question, while the remaining five factors found in sections 21(2)(e) to (i), if established, would tend to support non- disclosure of that information.

Other factors or relevant circumstances

[39] Other considerations (besides the ones listed in sections 21(2)(a) to (i)) must be considered under section 21(2) if they are relevant. These may include:

¹¹ The information that one affected party consented to release was disclosed earlier in the appeal process and is not at issue before me.

¹² The institution or, on appeal, the IPC.

¹³ Order MO-2954.

¹⁴ Order P-239.

¹⁵ Order P-99.

- inherent fairness issues,¹⁶
- ensuring public confidence in an institution,¹⁷
- personal information about a person who has died,¹⁸ or
- benefit to unknown heirs.¹⁹

Section 21(3)

[40] Sections 21(3)(a) to (h) list several situations in which disclosing personal information is presumed to be an unjustified invasion of personal privacy under section 49(b).

The sections relied upon by the ministry

[41] The ministry relies on sections 21(2)(f) and 21(3)(b) in its representations.

[42] Sections 21(2)(f) and 21(3)(b) read:

(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;

(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.

Representations

[43] The ministry submits that the disclosure of the information at issue would constitute an unjustified invasion of the personal privacy of the affected parties who have not consented to the disclosure of their personal information. The ministry goes on to argue that the presumption in section 21(3)(b) applies because the information at issue was compiled and is identifiable as part of an OPP investigation into a possible violation of law. According to the ministry, dog owners can be charged with criminal negligence, in contravention of section 219 of the *Criminal Code of Canada*.

¹⁶ Orders M-82, PO-1731, PO-1750, PO-1767 and P-1014.

¹⁷ Orders M-129, P-237, P-1014 and PO-2657.

¹⁸ Orders M-50, PO-1717, PO-1923, PO-1936 and PO-2012-R.

¹⁹ Orders P-1493, PO-1717 and PO-2012-R.

[44] The ministry also relies on the factor in section 21(2)(f). This factor, which weighs against disclosure of personal information, states that the head shall consider whether the personal information is highly sensitive. The ministry submits that past IPC orders have held that in order for section 21(2)(f) to apply, there must be a reasonable expectation of significant personal distress if the personal information was to be disclosed. The ministry relies on Order P-1618 in which the IPC found that personal information of complainants and witnesses as part of their contact with the OPP is "highly sensitive" for the purposes of section 21(2)(f). The ministry further relies on Order PO-3712, which upheld the application of section 21(2)(f) where consent had not been provided by affected parties in respect of the disclosure of their personal information contained in law enforcement investigation records.

[45] Regarding the WIN numbers, the ministry submits that the disclosure of the numbers would be expected to be distressing to the employees because it would reveal something of a personal nature about them, given that their names have already been disclosed. An individual who has both the name and WIN number of an employee might be able to obtain additional human resources information about the employee, which would be significantly distressing to the employee.²⁰

Analysis and findings

[46] To establish that the presumption at section 21(3)(b) is applicable, I must be satisfied only that there could be an investigation into a *possible* violation of law.²¹ So, even if criminal proceedings were never started against the individual, section 21(3)(b) may still apply.²² The presumption does not apply if the records were created after the completion of an investigation into a possible violation of law.²³

[47] Although no charges were laid, I am satisfied that all of the withheld personal information in the occurrence summary and the general report was compiled and is identifiable as part of an investigation into a possible violation of law. Accordingly, I find that section 21(3)(b) applies to it and weighs against disclosure.

[48] With regard to the factor in section 21(2)(f), to be considered highly sensitive, there must be a reasonable expectation of significant personal distress if the information is disclosed.²⁴ I find that the factor in section 21(2)(f) (highly sensitive) is relevant to some of the personal information at issue. In particular, I find that the statements alleged to have been made by one of the four affected parties about another affected party are highly sensitive. I also find that the factor in section 21(2)(f) applies and weighs against disclosure of the OPP employees' WIN numbers, as this

²⁰ See, for example, Order PO-3742.

²¹ Orders P-242 and MO-2235.

²² The presumption can also apply to records created as part of a law enforcement investigation where charges were laid but subsequently withdrawn (Orders MO-2213, PO-1849 and PO-2608).

²³ Orders M-734, M-841, M-1086, PO-1819 and MO-2019.

²⁴ Orders PO-2518, PO-2617, MO-2262 and MO-2344.

information is highly sensitive.

[49] Conversely, I find that some of the personal information relating to two of the affected parties (the appellant's parents) is not highly sensitive and, therefore, the factor in section 21(2) does not apply to it, for example, the names and addresses of these affected parties, who live with the appellant.

[50] Other factors under section 21(2), which have been considered in previous orders, have been found relevant in determining whether the disclosure of personal information would be an unjustified invasion of personal privacy, and include, for example, inherent fairness issues.²⁵ I find, in the circumstances of this appeal, that there is, in fact, another factor that weighs heavily in favour of the disclosure of some of the other personal information in the records. In particular, I find that part of the father's statement to the police was information that had been relayed to him by the appellant regarding the alleged dog bite incident. I find that this information was squarely within the appellant's knowledge, given that he provided the information about the incident to his father.

Balancing the interests

[51] As set out above, in deciding whether the disclosure of the personal information in the records would be an unjustified invasion of personal privacy under section 49(b), I must consider and weigh the factors and presumptions in sections 21(2) and (3) and balance the interests of the parties.²⁶ In this appeal, I found that section 21(3)(b) presumption applies to all of the withheld personal information, and the 21(2)(f) factor applies to some of the personal information. Both sections 21(3)(b) and 21(2)(f) weigh in favour of withholding the information. I note that in not providing representations, the appellant has not raised any section 21(2) factors weighing in favour of disclosure, including the fair determination of rights at issue in section 21(2)(d), as the appellant has already commenced civil litigation in regard to the alleged incident. I have, however, found there is one factor weighing in favour of disclosure, which is that some of the information provided by the appellant's father to the police regarding the alleged incident had been relayed to the father by the appellant and was, therefore, known to the appellant.

[52] With respect to the personal information of two affected parties, which includes an affected party's statements about another affected party, when I weigh the presumption and the factors that favours withholding with the interests of the parties themselves, I conclude that disclosure of the information at issue would constitute an unjustified invasion of the personal privacy of these two affected parties and the section 49(b) exemption applies to this information.

[53] Conversely, I find that the names and address of the appellant's parents, and a

²⁵ Orders M-82, PO-1731, PO-1750, PO-1767 and P-1014.

²⁶ Order MO-2954.

portion of the father's statement to the police would not constitute an unjustified invasion of their privacy and are not therefore exempt under section 49(b), as all of this personal information is within the appellant's knowledge. I will order the ministry to disclose this information to the appellant.

Issue D: Did the ministry exercise its discretion under sections 49(a) and 49(b)? If so, should I uphold the exercise of discretion?

[54] The sections 49(a) and 49(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, I may determine whether the institution failed to do so.

[55] In addition, I 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, or it fails to take into account relevant considerations.

[56] In either case, I may send the matter back to the institution for an exercise of discretion based on proper considerations.²⁷ I may not, however, substitute my own discretion for that of the institution.²⁸

[57] Relevant considerations may include those listed below. However, not all those listed will necessarily be relevant, and additional unlisted considerations may be relevant:²⁹

- the purposes of the *Act*, including the principles that information should be available to the public, individuals should have a right of access to their own personal information, exemptions from the right of access should be limited and specific, and the privacy of individuals should be protected,
- the wording of the exemption and the interests it seeks to protect,
- whether the requester is seeking his or her own personal information,
- whether the requester has a sympathetic or compelling need to receive the information,
- whether the requester is an individual or an organization,
- the relationship between the requester and any affected persons,
- whether disclosure will increase public confidence in the operation of the institution,

²⁷ Order MO-1573.

²⁸ See section 54(2).

²⁹ Orders P-344 and MO-1573.

- the nature of the information and the extent to which it is significant and/or sensitive to the institution, the requester or any affected person,
- the age of the information, and
- the historic practice of the institution with respect to similar information.

Representations

[58] The ministry submits that it exercised its discretion properly and based this exercise of discretion on the following considerations:

- the public policy interest in safeguarding the privacy of affected third-party individuals, in accordance with their wishes,
- the concern that the disclosure of the records would jeopardize public confidence in the OPP, especially in light of the public's expectation that information the public provides to the police during the course of a law enforcement investigation will be kept confidential, and
- the OPP acted in accordance with its usual practices and in reliance upon past orders in exempting law enforcement records containing police codes and affected parties' personal information.

Analysis and findings

[59] Based on the ministry's representations, I am satisfied that it properly exercised its discretion because it took into account relevant considerations and did not take into account irrelevant considerations. I am satisfied that the ministry balanced the appellant's interests in the disclosure of the records with the importance of the law enforcement exemption and the personal privacy exemption. I also note that the ministry disclosed the majority of the information contained in the records to the appellant, including the majority of his own personal information. In doing so, I find that the ministry took into consideration the purposes of the *Act*, including the principle that exemptions from the right of access should be limited and specific. Consequently, I uphold the ministry's exercise of discretion under section 49(a) to the information that I have found to be exempt from disclosure under section 14(1)(l), as well as the personal information I have found to be exempt under section 49(b).

ORDER:

1. I uphold the ministry's access decision, in part. I order the ministry to disclose portions of the records to the appellant by **November 9, 2022** but not before **November 4, 2022**. I have included copies of the records to the ministry, and highlighted the portions that *are* to be disclosed to the appellant.

2. I reserve the right to require the ministry to provide a copy of the records to the IPC that it discloses to the appellant.

Original Signed By: _____

Cathy Hamilton
Adjudicator

October 4, 2022 _____