

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-4268

Appeal MA20-00323

Peel Regional Police Services Board

November 3, 2022

**Summary:** The appellant sought access to police records related to a child custody matter that he was involved in under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*).

The police issued a decision granting partial access to the responsive records withholding information pursuant to the personal privacy exemption in section 38(b) of the *Act*. In addition, section 8(1)(l) (facilitate commission of an unlawful act) was used to withhold police operational codes contained within the records.

In this order, the adjudicator upholds the police's decision to withhold the information at issue because it is exempt by reason of section 38(a) (discretion to refuse access to requester's own personal information), read with section 8(1)(l), or section 38(b) and dismisses the appeal.

**Statutes Considered:** *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, sections 2(1) (definition of personal information), 8(1)(l), 14(1), 14(3)(b), 14(2)(f) and (h), 38(a), and 38(b).

**Orders Considered:** Order MO-2871.

### OVERVIEW:

[1] The appellant sought police records related to a child custody matter that he was involved in.

[2] Specifically, the Peel Regional Police Services Board (the police) received an access request under the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA or the *Act*) for access to a copy of all notes, event logs, incident reports, officer notes and 911 calls made in relation to a specific incident number.

[3] The police issued a decision granting partial access to the responsive records withholding information pursuant to the personal privacy exemption in section 38(b) of the *Act*. However, access to the 911 call was denied in full. In addition, the police relied on section 8(1)(l) (facilitate commission of an unlawful act) to withhold from disclosure the police operational 10-codes, patrol zone information and/or statistical codes contained within the records.

[4] The appellant appealed the police's decision to the Information and Privacy Commissioner of Ontario (the IPC).

[5] During the course of the mediation, the appellant advised the mediator that he is seeking access to the 911 call recording relating to the 911 operator only, as well as the police event notes.

[6] The mediator relayed this information to the police. The police issued a revised decision granting full access to the operator portion of the 911 call.

[7] The appellant advised the mediator that he is seeking access to all the withheld information contained within the responsive records relating to an incident on a specified date.

[8] The police advised the mediator that they maintain their decision to deny access to the withheld information.

[9] The appellant advised the mediator that he would like to pursue the appeal at adjudication, where an adjudicator may conduct an inquiry. I decided to conduct an inquiry, in which I sought and obtained representations from the police and the appellant, which were exchanged between them in accordance with IPC's *Practice Direction 7*.

[10] In this order, I uphold the police's decision that the information at issue is exempt by reason of section 38(a), read with section 8(1)(l), and section 38(b).

## **RECORDS:**

[11] The records remaining at issue consist of portions of a two-page event chronology report and five-pages of police officer notes (the paper records), as well as the non-operator portions of a 911 audio recording and the entirety of a follow-up call to the police's non-emergency line (the audio recordings).

[12] The police have withheld the police operational codes contained within the paper records pursuant to section 8(1)(l). Based on the information at issue, and as explained below, it was necessary to consider the application of section 38(a) (discretion to refuse access to requester's own personal information) with the police's section 8(1)(l) claim.

[13] The police have withheld the remaining information at issue in the records pursuant to section 38(b).

## **ISSUES:**

- A. Do the records contain "personal information" as defined in section 2(1) and, if so, whose personal information is it?
- B. Does the discretionary personal privacy exemption at section 38(b) apply to the information at issue in the records?
- C. Does the discretionary exemption at section 38(a), allowing an institution to refuse access to a requester's own personal information, read with the section 8(1)(l) law enforcement exemption, apply to the information at issue in the records?
- D. Did the police exercise their discretion under sections 38(a) and (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, whose personal information is it?**

[14] In order to decide which sections of the *Act* may apply to a specific case, I must first decide whether the record contains "personal information," and if so, to whom the personal information relates.

[15] Section 2(1) of the *Act* defines "personal information" as "recorded information about an identifiable individual." "Recorded information" is information recorded in any format, such as paper records, electronic records, digital photographs, videos, or maps.<sup>1</sup>

[16] Information is "about" the individual when it refers to them in their personal capacity, which means that it reveals something of a personal nature about the individual. Generally, information about an individual in their professional, official or

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<sup>1</sup> See the definition of "record" in section 2(1).

business capacity is not considered to be “about” the individual.<sup>2</sup>

[17] Information is about an “identifiable individual” if it is reasonable to expect that an individual can be identified from the information either by itself or if combined with other information.<sup>3</sup>

[18] Section 2(1) of the *Act* gives a list of examples of personal information:

“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 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.

[19] The list of examples of personal information under section 2(1) is not a complete

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

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

list. This means that other kinds of information could also be “personal information.”<sup>4</sup>

[20] It is important to know whose personal information is in the record. If the record contains the requester’s own personal information, their access rights are greater than if it does not.<sup>5</sup> Also, if the record contains the personal information of other individuals, one of the personal privacy exemptions might apply.<sup>6</sup>

### ***Representations***

[21] The police state that the records center on a child custody disagreement and include personal information about the appellant, as it pertained to and was documented by police officers conducting an investigation into the allegations.

[22] They further state that the records also contain names, home addresses, dates of birth, and personal records queries of other identifiable persons in a personal capacity, as well as comments made by identifiable persons to police about other identifiable persons.

[23] The appellant did not address this issue directly but did confirm that the records are about a child custody dispute between himself and his child’s mother.

### ***Findings***

[24] The records are police reports, notes and two audio recordings that are related to a child custody matter.

[25] I find that the records contain the personal information of the appellant and other identifiable individuals in their personal capacity, including the individual who contacted the police about the appellant (the complainant). This personal information includes these individuals’ names, home addresses, dates of birth, family status, and views and opinions in accordance with paragraphs (a), (d), (e), and (h) of the definition of personal information in section 2(1).

[26] As the records contain the appellant’s personal information, it is necessary to consider his access rights under section 36(1) of the *Act*, which gives individuals a general right of access to their own personal information, subject to certain exemptions set out in section 38. It is for this reason that I will consider the police’s exemption claim for personal privacy under section 38(b), as claimed, and why it is necessary to consider the police’s section 8(1)(l) exemption claim in conjunction with section 38(a).

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<sup>4</sup> Order 11.

<sup>5</sup> Under sections 36(1) and 38 of the *Act*, a requester has a right of access to their own personal information, and any exemptions from that right are discretionary, meaning that the institution can still choose to disclose the information even if the exemption applies.

<sup>6</sup> See sections 14(1) and 38(b).

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

[27] As noted above, 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 some exemptions from this right.

[28] Under the section 38(b) exemption, if a record contains the personal information of both the requester and another individual, the institution may refuse to disclose the other individual's personal information to the requester if disclosing that information would be an "unjustified invasion" of the other individual's personal privacy.

[29] The section 38(b) exemption is discretionary. This means that the institution can decide to disclose another individual's personal information to a requester even if doing so would result in an unjustified invasion of the other individual's personal privacy.

[30] If disclosing another individual's personal information would not be an unjustified invasion of personal privacy, then the information is not exempt under section 38(b).

[31] Also, the requester's own personal information, standing alone, cannot be exempt under section 38(b) as its disclosure could not, by definition, be an unjustified invasion of another individual's personal privacy.<sup>7</sup>

[32] Sections 14(1) to (4) provide guidance in deciding whether disclosure would be an unjustified invasion of the other individual's personal privacy.

[33] If any of the sections 14(1)(a) to (e) or 14(4)(a) to (c) apply, disclosure would not be an unjustified invasion of personal privacy and the information is not exempt from disclosure under section 38(b). Neither of the parties claim that any of sections 14(1)(a) to (e) or 14(4)(a) to (c) apply. Based on my review of the information at issue, none of these sections are relevant to the present appeal.

[34] Therefore, it is necessary for me to decide if any of the factors or presumptions in sections 14(2) or (3) apply. Sections 14(2) and (3) help in deciding whether disclosure would or would not be an unjustified invasion of personal privacy under section 38(b).

[35] In deciding whether the disclosure of the personal information in the records would be an unjustified invasion of personal privacy under section 38(b), I must consider and weigh the factors and presumptions in sections 14(2) and (3) and balance the interests of the parties.<sup>8</sup>

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<sup>7</sup> Order PO-2560.

<sup>8</sup> Order MO-2954.

## ***Representations***

[36] Sections 14(3)(a) to (h) list several situations in which disclosing personal information is presumed to be an unjustified invasion of personal privacy under section 38(b).

[37] The police rely on the presumption in section 14(3)(b). This section reads:

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

was compiled and is identifiable as part of an investigation into a possible violation of law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation;

[38] The police state that the records contain police officer notes into a police investigation and the complainant's voice on a 911 call.

[39] The police state that the presumption in 14(3)(b) applies as the information at issue in the records pertain to an investigation into a possible violation of law.

[40] The police also rely on the factors in section 14(2)(f) and (h), both of which favour privacy protection. These sections read:

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;

(h) the personal information has been supplied by the individual to whom the information relates in confidence.

[41] The police state that section 14(2)(f) is applicable, as there is personal information about witnesses, complainants, or suspects in a police investigation that could result in significant personal distress if disclosed.

[42] The police further state that section 14(2)(h) is also applicable, as the personal information was supplied in confidence. They submit that both the individual supplying the information and the recipients (a police officer and the calls' operator) had an expectation that the information would be treated confidentially. They further submit that the nature of the roles of both recipients speaks to the expectation of confidentiality that the complainant had in providing the information, and would lead to an objective assessment that this expectation was "reasonable" in the circumstances.

[43] The appellant did not address the application of section 38(b) directly in his

representations. The appellant admits that the police were called to investigate a complaint made to them about the appellant concerning a possible violation of law. His representations focus on his view that the complainant was not justified in complaining to the police about him and that, in his view, a false report was made to the police about the appellant's behavior.

### ***Findings***

[44] The personal information remaining at issue in the records is information that the complainant provided to the police in the police investigation of the complaint related to the custody dispute, or information about the police's involvement and actions in response to the complaint made by the complainant to the police.

[45] I agree with the police that the personal information in the records was compiled and is identifiable as part of an investigation into a possible violation of law related to the custody dispute set out in the records.

[46] Therefore, I find that the presumption against disclosure in section 14(3)(b) applies as the personal information in the records was compiled and is identifiable as part of an investigation into a possible violation of law. This section requires only that there be an investigation into a possible violation of law.<sup>9</sup> So, even if criminal proceedings were never started against the individual, section 14(3)(b) still applies.<sup>10</sup> The section 14(3)(b) presumption weighs in favour of privacy protection.

[47] Section 14(2) lists several factors that may be relevant to determining whether disclosure of personal information would be an unjustified invasion of personal privacy.<sup>11</sup> Some of the factors weigh in favour of disclosure, while others weigh against disclosure, such as those raised by the police.

[48] The list of factors under section 14(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 14(2).<sup>12</sup>

[49] Each of the first four factors, found in sections 14(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 14(2) (e) to (i), if established, would tend to support non-disclosure of that information.

[50] Other considerations (besides the ones listed in sections 14(2)(a) to (i)) must be considered under section 14(2) if they are relevant. These may include:

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<sup>9</sup> Orders P-242 and MO-2235.

<sup>10</sup> 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).

<sup>11</sup> Order P-239.

<sup>12</sup> Order P-99.



- inherent fairness issues,<sup>13</sup>
- ensuring public confidence in an institution,
- personal information about a person who has died,<sup>14</sup> or
- benefit to unknown heirs.<sup>15</sup>

[51] The police argue that the factors in sections 14(2)(f) and (h) apply and support non-disclosure of the information at issue.

[52] Section 14(2)(f) is intended to weigh against disclosure when the evidence shows that the personal information is highly sensitive. To be considered "highly sensitive," there must be a reasonable expectation of significant personal distress if the information is disclosed.<sup>16</sup> For example, personal information about witnesses, complainants or suspects in a police investigation may be considered highly sensitive.<sup>17</sup>

[53] I agree with the police that the personal information in the records is highly sensitive. This is information the complainant provided to the police in a police investigation and includes the police's involvement and actions in response to the complainant's report. Considering that the custody dispute is contentious, I find that the personal information remaining at issue in the records is highly sensitive information about the complainant and that the factor in section 14(2)(f) applies and weighs against disclosure.

[54] Section 14(2)(h) has also been claimed by the police. This factor weighs against disclosure if both the individual supplying the information and the recipient had an expectation that the information would be treated confidentially, and that expectation is reasonable in the circumstances. This requires an objective assessment of whether the expectation of confidentiality is "reasonable."<sup>18</sup>

[55] Based on my review of the personal information at issue in the records, I find that it was supplied by the complainant to the police with the reasonable expectation that it would be confidential. Therefore, the factor in section 14(2)(h) applies and weighs against disclosure.

[56] The appellant has not argued that any of the section 14(2) factors apply; however, he has argued that he requires access to the information at issue to prove that the complainant filed a false report, which affects his custody rights. As indicated above, unlisted factors may also be taken into consideration when deciding whether

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<sup>13</sup> Orders M-82, PO-1731, PO-1750, PO-1767 and P-1014.

<sup>14</sup> Orders M-50, PO-1717, PO-1923, PO-1936 and PO-2012-R.

<sup>15</sup> Orders P-1493, PO-1717 and PO-2012-R.

<sup>16</sup> Orders PO-2518, PO-2617, MO-2262 and MO-2344.

<sup>17</sup> Order MO-2980.

<sup>18</sup> Order PO-1670.

disclosure would amount to an unjustified invasion of personal privacy. I have, therefore, considered whether the appellant's arguments are relevant and weigh in favour of disclosure. In my view, they do not.

[57] To begin, the appellant has not identified any particular proceedings underway or how the records would be used in that context. As well, the disclosed portions of the records clearly indicate the outcome of the police's investigation. Therefore, I do not accept the appellant's claim that the undisclosed portions of the records are needed in order for him to disprove an allegation made about him in the custody proceedings. In making this finding, I note from the disclosed portions of the records, the appellant is aware as to why the police were called by the complainant, what possible violation of law they were investigating in interviewing him, and the outcome of their investigation.

[58] I have also considered whether any other factors or relevant circumstances may exist in the circumstances of this appeal, especially those that favour disclosure. I find that no other factors or relevant circumstances exist that favour disclosure of the information to the appellant.

[59] As set out above, in determining whether the disclosure of the personal information in the records would be an unjustified invasion of personal privacy under section 38(b), I must consider, and weigh, the factors and presumptions in sections 14(2) and (3) and balance the interests of the parties.

[60] In this appeal, the presumption against disclosure in section 14(3)(b) applies and weighs in favour of privacy protection. No factors favouring disclosure have been raised by the parties, nor have I found on my own review that any apply. However, I have found that the factors favouring privacy protection in sections 14(2)(f) and (h) apply.

[61] After weighing the interests of the parties including the appellant's right to access his own personal information, together with the presumption at section 38(b) and the factors in sections 14(2)(f) and (h), all of which weigh against disclosure, I find that disclosure of the information at issue would constitute an unjustified invasion of the personal privacy of individuals other than the appellant. I, therefore, find that the information at issue is exempt under the discretionary section 38(b) exemption. I will review the police's exercise of discretion to withhold this information at Issue D, below.

**Issue C: Does the discretionary exemption at section 38(a), allowing an institution to refuse access to a requester's own personal information, read with the section 8(1)(l) law enforcement exemption, apply to the records?**

[62] 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 some exemptions from this general right of access to one's own personal information.

[63] Section 38(a) of the *Act* reads:

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

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

[64] The discretionary nature of section 38(a) ("may" refuse to disclose) 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 own personal information.<sup>19</sup>

[65] If the institution refuses to give an individual access to their own personal information under section 38(a), the institution must show that it considered whether a record should be released to the requester because the record contains their personal information.

[66] Section 8 contains several exemptions from a requester's right of access, mostly related to the context of law enforcement.

[67] In this case, the institution relies on section 38(a) read with section 8(1)(l). Section 8(1)(l) states:

A head may refuse to disclose a record if the disclosure could reasonably be expected to, facilitate the commission of an unlawful act or hamper the control of crime.

[68] Many of the exemptions listed in section 8 apply where a certain event or harm "could reasonably be expected to" result from disclosure of the record.

[69] The law enforcement exemption must be approached in a sensitive manner, because it is hard to predict future events in the law enforcement context, and so care must be taken not to harm ongoing law enforcement investigations.<sup>20</sup>

[70] However, the exemption does not apply just because a continuing law enforcement matter exists,<sup>21</sup> and parties resisting disclosure of a record cannot simply assert that the harms under section 8 are obvious based on the record. They must provide detailed evidence about the risk of harm if the record is disclosed. While harm can sometimes be inferred from the records themselves and/or the surrounding circumstances, parties should not assume that the harms under section 8 are self-evident and can be proven simply by repeating the description of harms in the *Act*.<sup>22</sup>

[71] Parties resisting disclosure must show that the risk of harm is real and not just a

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<sup>19</sup> Order M-352.

<sup>20</sup> *Ontario (Attorney General) v. Fineberg* (1994), 19 O.R. (3d) 197 (Div. Ct.).

<sup>21</sup> Order PO-2040 and *Ontario (Attorney General) v. Fineberg*, cited above.

<sup>22</sup> Orders MO-2363 and PO-2435.

possibility.<sup>23</sup> However, they do not have to prove that disclosure will in fact result in harm. How much and what kind of evidence is needed to establish the harm depends on the context of the request and the seriousness of the consequences of disclosing the information.<sup>24</sup>

### ***Representations***

[72] The police have applied section 8(1)(l) to the police operational codes in the records. They provided the order numbers for many IPC orders that have found that police operational codes qualify for exemption under section 8(1)(l) due to the reasonable expectation of harm that could result from their release. They state that knowledge of police operational codes could reasonably interfere with police investigative privilege, and should not be disclosed to members of the public.

[73] The appellant did not provide any representations on this issue.

### ***Findings re section 8(1)(l): facilitate commission of an unlawful act or hamper the control of crime***

[74] For section 8(1)(l) to apply, there must be a reasonable basis for concluding that disclosure of the information at issue could be expected to facilitate the commission of an unlawful act or hamper the control of crime.

[75] Many past IPC orders have considered the application of section 8(1)(l) to police operational code information. In Order MO-2871, I found that the disclosure of police operational codes, including those known as ten-codes, could reasonably be expected to facilitate the commission of an unlawful act or hamper the control of crime. I stated:

This office has issued numerous orders with respect to the disclosure of police codes and has consistently found that section 8(1)(l) 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:

In my view, disclosure of the “ten-codes” [police operational codes] would leave OPP [Ontario Provincial Police] 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

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<sup>23</sup> *Merck Frosst Canada Ltd. v. Canada (Health)*, [2012] 1 S.C.R. 23.

<sup>24</sup> *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)*, 2014 SCC 31 (CanLII) at paras. 52-4; *Accenture Inc. v. Ontario (Information and Privacy Commissioner)*, 2016 ONSC 1616.

communicate with each other on publicly accessible radio transmission space...

[76] I remain of the view that police operational code information is subject to the law enforcement exemption at section 8(1)(l) of the *Act*, and I adopt the approach taken to this information in the orders mentioned above.

[77] I find that disclosure of the police operational codes could reasonably be expected to facilitate the commission of an unlawful act or hamper the control of crime because the information could reasonably be expected to compromise the ability of officers to provide effective policing services by enabling individuals engaged in illegal activities to more easily carry out such activities. Therefore, I find that section 38(a), with section 8(1)(l), applies to the police operational codes at issue. I will review the police's exercise of discretion to withhold this information at Issue D, below.

**Issue D: Did the police exercise their discretion under sections 38 (a) or 38(b), as applicable? If so, should I uphold the exercise of discretion?**

[78] The sections 38(a) and (b) exemptions are discretionary (the institution "may" refuse to disclose), meaning that the institution can decide to disclose information even if the information qualifies for exemption. An institution must exercise its discretion. On appeal, the IPC may determine whether the institution failed to do so.

[79] In addition, the IPC 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.

[80] In either case, the IPC may send the matter back to the institution for an exercise of discretion based on proper considerations.<sup>25</sup> The IPC cannot, however, substitute its own discretion for that of the institution.<sup>26</sup>

[81] Some examples of relevant considerations are listed below. However, not all of these will necessarily be relevant, and additional considerations may be relevant:<sup>27</sup>

- the purposes of the *Act*, including the principles that:
  - information should be available to the public,

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<sup>25</sup> Order MO-1573.

<sup>26</sup> Section 43(2).

<sup>27</sup> Orders P-344 and MO-1573.

- 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 their own personal information,
- whether the requester has a sympathetic or compelling need to receive the information,
- whether the requester is an individual or an organization,
- the relationship between the requester and any affected persons,
- whether disclosure will increase public confidence in the operation of the institution,
- the nature of the information and the extent to which it is significant and/or sensitive to the institution, the requester or any affected person,
- the age of the information, and
- the historic practice of the institution with respect to similar information.

### ***Representations***

[82] The police submit that it would be an unjustified invasion of the other individuals' personal privacy interests and/or the police's legitimate interests in investigative privilege to release the remainder of the records. They state that they considered all of the relevant considerations under the personal privacy exemption in *MFIPPA*, including the balancing of rights, and the need to protect sensitive information.

[83] The police submit that while the appellant was mentioned in portions of the records, and spoke to at least one of the investigating officers, he was not present for the majority of the activities in the investigation. They state that given the sensitive nature of the investigation, and the unjustified invasion of the privacy interests of the other individuals in the records, they exercised their discretion not to release the majority of the documentation sought by the appellant.

[84] The appellant did not address this issue in his representations.

***Findings***

[85] Based on my review of the police's representations and the information that they have withheld under sections 38(a) and 38(b), I find that the police exercised their discretion in a proper manner, taking into account relevant considerations and not taking into account irrelevant considerations.

[86] I am satisfied that the police balanced the appellant's interests in the disclosure of the records with the importance of the personal privacy and law enforcement exemptions. I also note that the police disclosed portions of the records at issue to the appellant that are responsive to the issues that he is seeking to address.

[87] Accordingly, I am upholding the police's exercise of discretion not to disclose the information at issue in the records by reason of sections 38(b), or as applicable, 38(a), read with section 8(1)(l).

**ORDER:**

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

Original Signed by: \_\_\_\_\_

Diane Smith  
Adjudicator

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November 3, 2022