

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-4377

Appeal MA21-00115

Woodstock Police Services Board

May 19, 2023

**Summary:** The Woodstock Police Services Board (the police) received an access request under the *Act* for records relating to a specified address since 2016. The police denied access to the records, in part, relying on sections 38(a), read with section 8(1)(c) (reveal investigative techniques and procedures), and 38(b) (personal privacy). During mediation, the issue of whether the police's fee was reasonable was added to the scope of the appeal. In this order, the adjudicator partially upholds the police's decision. She finds that the information withheld under section 38(b) is exempt. She finds that the information withheld under section 38(a), read with section 8(1)(c), is not exempt, and orders this information to be disclosed. The adjudicator also does not uphold the police's fee and reduces it to \$12.80.

**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)(c), 38(a), 38(b) and 45(1).

**Orders Considered:** Orders MO-2980, MO-3802 and MO-4182.

### OVERVIEW:

[1] The Woodstock Police Services Board (the police) received the following request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*):

All records of every police interaction at a [specified address] since 2016.  
Including direct interactions with [specified named police chief]. ...

[2] The police issued a decision granting partial access to the responsive records. Access to the withheld information was denied pursuant to section 38(a), read with section 8(1)(c) (reveal investigative techniques and procedures), and section 38(b) (personal privacy) of the *Act*.<sup>1</sup>

[3] The police issued an invoice with a fee to process the request for \$193.20.

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

[5] During mediation, the appellant advised that she was seeking access to the withheld portions of the responsive records and appealing the fee charged by the police. As such, fee was added to the scope of the appeal.

[6] The police indicated they were maintaining their original decision (including on fee) and would not be disclosing any further information.

[7] Since no further mediation was possible, the appeal proceeded to the adjudication stage of the appeal process and I decided to conduct an inquiry. I sought representations from the police and the appellant. I received representations only from the police.

[8] For the reasons that following, I find that the information withheld under section 38(a), read with section 8(1)(c), is not exempt and order this information to be disclosed. I uphold the police's decision that section 38(b) applies to the withheld information. I also reduce the fee to \$12.80.

## **RECORDS:**

[9] The records at issue consist of the following seven general reports and officer notes, two mental health reports and officer notes, and an arrest report and officer notes. I have numbered them as follows:

- Record 1 (general report and officer notes pages 1-4)
- Record 2 (mental health report and officer notes pages 5-10)
- Record 3 (general report and supplementary report pages 11-12)
- Record 4 (general report and supplementary report and officer notes)

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<sup>1</sup> The police initially withheld the information based on sections 8(1)(c) and 14(1) but during mediation they confirmed that sections 38(a) and 38(b) should be added as the records contain the appellant's personal information. The police also withheld information under section 8(1)(l). However, during mediation, the appellant advised that she was not seeking access to information withheld under section 8(1)(l).

- ending in pages 13-19)
- Record 5 (arrest report and officer notes pages 20-31)
- Record 6 (mental health report and officer notes pages 32-38)
- Record 7 (general report and officer notes pages 39-42)
- Record 9 (occurrence summary and officer notes pages 44-47)
- Record 10 (general report and officer notes pages 48-50)
- Record 11 (general report and officer notes page 51-52)
- Record 12 (general report and officer notes pages 53-64)<sup>2</sup>

[10] Some of the withheld information in record 5 is withheld pursuant to section 38(a), read with section 8(1)(c).

[11] The remaining records are withheld, in part, 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?
- 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)(c) exemption, apply to the information at issue?
- D. Did the police exercise their discretion under section 38(b)? If so, should I uphold the exercise of discretion?
- E. Should the police's fee be upheld?

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<sup>2</sup> The police have disclosed record 8, in full, to the appellant. As such, this record is not at issue in this appeal.

## **DISCUSSION:**

### **Issue A: Do the records contain “personal information” as defined in section 2(1) and, if so, whose personal information is it?**

[12] In order to decide whether section 38(b) applies, I must first decide whether the records contain “personal information,” and if so, to whom this personal information relates.

[13] Section 2(1) of the *Act* defines “personal information” as “recorded information about an identifiable individual.” Recorded information is information recorded in any format, including paper and electronic records.<sup>3</sup>

[14] Information is “about” the individual when it refers to them in their personal capacity, meaning that it reveals something of a personal nature about them. Generally, information about an individual in their professional, official, or business capacity is not considered to be “about” the individual if it does not reveal something of a personal nature about them.<sup>4</sup>

[15] 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>5</sup>

[16] Section 2(1) of the *Act* gives a list of examples of personal information. All of the examples that are relevant to this appeal are set out below:

“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,

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<sup>3</sup> The definition of “records” in section 2(1) includes paper records, electronic records, digital photographs, videos and maps. The record before me is a paper record located by searching a police database.

<sup>4</sup> Orders P-1409, R-980015, PO-2225 and MO-2344.

<sup>5</sup> Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.).

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

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

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

[17] The list of examples of personal information under section 2(1) is not a complete list. This means that other kinds of information could also be "personal information."<sup>6</sup>

[18] It is important to know whose personal information is in the records. If the records contain the requester's own personal information, their access rights are greater than if it does not.<sup>7</sup> Also, if the records contain the personal information of other individuals, one of the personal privacy exemptions might apply.<sup>8</sup>

[19] The police submit that the records contain the personal information of affected parties and the appellant. The police explain that certain information about the appellant was not disclosed because it was provided by the affected parties. The police note that other information was not disclosed to the appellant because it did not relate to her. Finally, the police state that other information about the appellant was withheld as the information came from other sources which had not been verified.

[20] The records at issue consist of reports regarding incidents involving the appellant and other affected parties. While much of the information in the reports has already been disclosed to the appellant, I find that some of the remaining information consists of her personal information that can be severed and disclosed to her. However, some of the remaining information is the personal information of both the appellant and other identifiable individuals that cannot be severed.

[21] I do not accept the police's arguments that other information cannot be disclosed to the appellant because it was not verified by a physician or pharmacist. The determination of whether information is personal information does not depend on whether the information was verified. I find that the name of the prescription drugs or the diagnoses listed in the report relate to the appellant and qualifies as her personal information. I will order this information to be disclosed to her.<sup>9</sup>

[22] With respect to the names of CMHA workers and a medical professional, section

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<sup>6</sup> Order 11.

<sup>7</sup> Under sections 47(1) and 49 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>8</sup> See sections 14(1) and 38(b).

<sup>9</sup> See record 5.

2.1 of the *Act* states that personal information does not include the name, title, contact information of an individual in their business, professional or official capacity. These CMHA workers and the medical professional were mentioned in the records in their professional capacity. As such, their names are not their personal information in this context. I order this type of information to be disclosed as the police is not relying on any other exemption to withhold this information.

[23] In three general reports,<sup>10</sup> there are portions of withheld information that relates only to the appellant. I find that these withheld portions qualify as the appellant's personal information and can be severed from the other withheld information. As the personal privacy exemptions cannot apply to exempt the appellant's own personal information from disclosure to herself, I will order the police to disclose the personal information pertaining to the appellant in accordance with the highlighted records enclosed with this order.

[24] In addition, I find that the withheld information on page 54 of record 12 is not personal information of any identifiable individuals. This withheld information is about an action taken by one of the police officers at the incident. As such, I order this information to be disclosed to the appellant as the police is not relying on any other exemptions to withhold it.

[25] As I have found that the withheld information in the remaining records contains the personal information of the appellant along with other identifiable individuals, I will consider the appellant's access to the records under Part II of the *Act*.

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

[26] Under section 38(b), where a record contains personal information of both the requester and another individual, and disclosure of the information would be an "unjustified invasion" of the other individual's personal privacy, the institution may refuse to disclose that information to the requester. Since the section 38(b) exemption is discretionary, the institution may also decide to disclose the information to the requester.

[27] Sections 14(1) to (4) provide guidance in determining whether disclosure would be an unjustified invasion of personal privacy. If the information fits within any of exceptions in sections 14(1)(a) to (e), disclosure is not an unjustified invasion of personal privacy and the information is not exempt under section 38(b).

[28] Sections 14(2) and (3) also help in determining whether disclosure would or would not be an unjustified invasion of personal privacy under section 38(b). Also, section 14(4) lists situations that would not be an unjustified invasion of personal privacy. If any of paragraphs (a) to (d) of section 14(4) apply, disclosure is not an

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<sup>10</sup> Records 10, 11 and 12.

unjustified invasion of personal privacy and the information is not exempt under section 38(b).

[29] In determining whether the disclosure of the personal information in the records would be an unjustified invasion of personal privacy under section 38(b), this office will consider, and weigh, the factors and presumptions in sections 14(2) and (3) and balance the interests of the parties.<sup>11</sup>

[30] If any of sections 14(3)(a) to (h) apply, disclosure of the information is presumed to be an unjustified invasion of personal privacy under section 38(b). Section 14(2) lists various factors that may be relevant in determining whether disclosure of personal information would constitute an unjustified invasion of personal privacy.<sup>12</sup> The list of factors under section 14(2) is not exhaustive. The institution must also consider any circumstances that are relevant, even if they are not listed under section 14(2).<sup>13</sup>

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

[31] I note that the withheld information does not fit within the exceptions set out in section 14(1)(a) to (e) nor section 14(4) of the *Act*. As such, I will turn to discuss whether any of the factors or presumptions under sections 14(2) and (3) apply.

[32] Although the police submitted representations, their representation did not address any of the factors or presumptions under sections 14(2) and (3). Their representations simply state that section 38(b) applies because the information at issue was not supplied by the appellant. The police acknowledge that it is her personal information. This is an incorrect interpretation of section 38(b). As stated above, section 38(b) applies where a record contains personal information of the requester (the appellant in this case) and another individual and the disclosure of the information would be an "unjustified invasion" of the other individual's personal privacy, the institution may refuse to disclose that information to the appellant. As well, it is irrelevant whether the information at issue was supplied by the appellant or not.

[33] In my view, I find that the presumption in section 14(3)(b) apply to the withheld information in records 1, 3, 4, 9, 11 and 12 under section 38(b). Section 14(3)(b) states:

(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.

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<sup>11</sup> Order MO-2954.

<sup>12</sup> Order P-239.

<sup>13</sup> Order P-99.

[34] Even if no criminal proceedings were commenced against any individuals, section 14(3)(b) may still apply. The presumption only requires that there be an investigation into a possible violation of law.<sup>14</sup> The presumption can also apply to records created as part of a law enforcement investigation where charges are subsequently withdrawn.<sup>15</sup>

[35] Based on my review of the records, I find that the presumption at section 14(3)(b) applies to records 1, 3, 4, 9, 11 and 12.<sup>16</sup> These records concern information about police investigations relating to criminal harassment and other offences. The withheld information was compiled and is identifiable as part of the investigations into possible violations of the *Code* which did not result in charges being laid. Although no charges were laid, there need only have been an investigation into a possible violation of law for the presumption at section 14(3)(b) to apply.<sup>17</sup> Section 14(3)(b) therefore weighs in favour of non-disclosure of the withheld information in records 1, 3, 4, 9, 11 and 12.

[36] I also find that the factor in section 14(2)(f) applies to the exempt information. Section 14(2)(f) states:

(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;

[37] To be considered highly sensitive, however, there must be a reasonable expectation of significant personal distress if the information is disclosed.<sup>18</sup>

[38] In Order MO-2980, Adjudicator Colin Bhattacharjee found that whether an individual's name and address is highly sensitive depends on the context, and should be assessed on a case-by-case basis. Specifically, Adjudicator Bhattacharjee wrote:

An individual's name and address is not always sensitive information. For example, the names and addresses of most individuals appear in publically accessible telephone or online 411 directories and are clearly not highly sensitive in that context.

However, the names and addresses of individuals have greater sensitivity when this information is collected by the state or agencies of the state such as the police ...

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<sup>14</sup> Orders P-242 and MO-2235.

<sup>15</sup> Orders MO-2213, PO-1849 and PO-2608.

<sup>16</sup> The presumption at section 14(3)(b) does not apply to the remaining records at issue because it does not apply when the police is exercising their authority under the *Mental Health Act*. See Orders MO-3594, MO-3465 and MO-3063.

<sup>17</sup> Orders P-242 and MO-2235.

<sup>18</sup> Orders PO-2518, PO-2617, MO-2262 and MO-2344.



[39] I agree with and adopt the above reasoning for the purpose of this appeal.

[40] In this case, the affected parties' personal information, such as their address and phone number, are contained in police records, and, therefore, I find that the context is highly sensitive. I also accept that disclosure of the affected parties' personal information to the appellant would cause the affected parties' significant personal distress. As a result, I give this factor some weight.

[41] Having reviewed the withheld information and considering the factor and presumption in sections 14(2) and (3), I find that disclosure of the withheld information would be an unjustified invasion of the affected parties' personal privacy. Accordingly, I find that the withheld information is exempt under section 38(b) subject to my finding on the police's exercise of discretion.

### ***Absurd result principle***

[42] An institution might not be able to rely on the section 38(b) exemption in cases where the requester originally supplied the information in the record, or is otherwise aware of the information contained in the record. In this situation, withholding the information might be absurd and inconsistent with the purpose of the exemption.<sup>19</sup>

[43] For example, the "absurd result" principle has been applied when:

- the requester sought access to their own witness statement,<sup>20</sup>
- the requester was present when the information was provided to the institution,<sup>21</sup> and
- the information was or is clearly within the requester's knowledge.<sup>22</sup>

[44] However, if disclosure is inconsistent with the purpose of the exemption, the absurd result principle may not apply.<sup>23</sup>

[45] I note that the police have disclosed certain information about the appellant's children but withheld other information about them in records 1, 10, 11, and 12. I find that the absurd principle would apply to these withheld portions. In this case, it is evident that the appellant would be aware of the withheld information about her children as she is their mother. As such, I find that it would be absurd to withhold these portions from her. I understand that the police did not disclose these portions because the appellant did not provide a current court agreement indicating proof of her parental rights with her access request. In this case, proof of her parental rights is not needed.

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<sup>19</sup> Orders M-444 and MO-1323.

<sup>20</sup> Orders M-444 and M-451.

<sup>21</sup> Orders M-444 and P-1414.

<sup>22</sup> Orders MO-1196, PO-1679 and MO-1755.

<sup>23</sup> Orders M-757, MO-1323 and MO-1378.

Accordingly, I find that these withheld portions are not exempt from disclosure under the discretionary privacy exemption at section 38(b) of the *Act* and order them disclosed to the appellant.

**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)(c) exemption, apply to the information at issue in record 5?**

[46] The information withheld under section 38(a), read with section 8(1)(c), can be found in record 5.

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

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

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

[48] Section 38(a) of the *Act* recognizes the special nature of requests for one's own personal information and the desire of the legislature to give institutions the power to grant requesters access to their personal information.<sup>24</sup>

[49] Where access is denied under section 38(a), the institution must demonstrate that, in exercising its discretion, it considered whether a record should be released to the requester because the record contains his or her personal information.

[50] In this case, the police rely on section 38(a), read with section 8(1)(c).

[51] Sections 8(1)(c) reads:

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

reveal investigative techniques and procedures currently in use or likely to be used in law enforcement;

[52] The term *law enforcement* is defined in section 2(1) of the *Act* and applies to police investigations into possible violations of the *Criminal Code*.<sup>25</sup>

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

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<sup>24</sup> Order M-352.

<sup>25</sup> Orders M-202 and PO-2085.

context.<sup>26</sup>

[54] However, it is not enough for an institution to take the position that the harms under section 8 are self-evident from the record.<sup>27</sup> The institution must provide sufficient evidence to demonstrate a reasonable expectation for harm. The institution 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.<sup>28</sup>

[55] With regard to the section 8(1)(c) exemption, the police must show that disclosure of the technique or procedure to the public could reasonably be expected to hinder or compromise its effective utilization. The exemption will not normally apply where the technique or procedure is generally known to the public.<sup>29</sup> The techniques or procedures must also be *investigative* and the exemption will not apply to *enforcement* techniques or procedures.<sup>30</sup>

[56] In this case, the police argue that disclosure of some of the withheld information in record 5 would reveal the procedure the police use in certain situations. The police submit that if this information is disclosed to the appellant then they would not be able to employ it in future occurrences involving the appellant.

[57] I have reviewed the police's representations and all the withheld information in record 5.<sup>31</sup> On my review, I do not see that any of the withheld information in record 5 reveals a procedure. Instead, the report and police officer's notes reveal how the police dealt with the appellant during this specific occurrence. I find that the withheld information does not constitute a procedure in any way such that section 8(1)(c) would apply. As such, I find that the withheld information in record 5 is not exempt under section 38(a), read with section 8(1)(c).

**Issue D: Did the police exercise their discretion under section 38(b) If so, should I uphold the exercise of discretion?**

[58] The exemption in section 38(b) is discretionary and permits an institution to disclose the information subject to the exemption despite the fact that it could withhold it. An institution must exercise its discretion. On appeal, the IPC may determine whether the institution failed to do so.

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<sup>26</sup> *Ontario (Attorney General) v. Fineberg* (1994), 19 O.R. (3d) 197 (Div. Ct.).

<sup>27</sup> *Ibid.* and Order PO-2040.

<sup>28</sup> *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)*, 2014 SCC 31 (CanLII) at paras. 52-54.

<sup>29</sup> Orders P-170, P-1487, MO-2347-I and PO-2751.

<sup>30</sup> Orders PO-2034 and P-1340.

<sup>31</sup> It is not clear which portions in record 5 are withheld under section 38(a), read with section 8(1)(c). As such, I reviewed all the withheld portions in this record to determine whether it would be exempt under section 38(a), read with section 8(1)(c).

[59] The IPC may find 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 fails to take into account relevant considerations. In either case, this office may send the matter back to the institution for an exercise of discretion based on proper considerations.<sup>32</sup> However, the IPC may not substitute its own discretion for that of the institution.<sup>33</sup>

[60] The police submit that they properly exercised their discretion under section 38(b). They submit they considered the following three factors in exercising their discretion: (1) the privacy rights of involved individuals; (2) interference with a law enforcement matter; and (3) individuals should have a right of access to their own personal information.

[61] Based on my review of the police's representations and the nature and content of the exempt information, I find that the police properly exercised their discretion to withhold the exempt information of the affected parties pursuant to the discretionary personal privacy exemption at section 38(b) of the *Act*. I note that the police took into account the following relevant considerations: the nature of the information, privacy rights of third parties and individuals should have a right of access to their own personal information, and the wording of the exemption and the interests it seeks to protect. I am satisfied that they did not act in bad faith or for an improper purpose. Accordingly, I uphold the police's exercise of discretion in deciding to withhold the exempt information pursuant to the section 38(b) exemption.

### **Issue E: Should the fee be upheld?**

[62] Section 45(1) requires an institution to charge fees for requests under the *Act*. That section reads:

A head shall require the person who makes a request for access to a record to pay fees in the amounts prescribed by the regulations for,

- (a) the costs of every hour of manual search required to locate a record;
- (b) the costs of preparing the record for disclosure;
- (c) computer and other costs incurred in locating, retrieving, processing and copying a record;
- (d) shipping costs; and

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<sup>32</sup> Order MO-1573.

<sup>33</sup> Section 43(2) of the *Act*.

(e) any other costs incurred in responding to a request for access to a record.

[63] More specific provisions regarding fees for access to records are found in sections 6.1, 7 and 9 of Regulation 823. Those sections read, in part:

6.1 The following are the fees that shall be charged for the purposes of subsection 45(1) of the Act for access to personal information about the individual making the request for access:

1. For photocopies and computer printouts, 20 cents per page.
  2. For records provided on CD-ROMs, \$10 for each CD-ROM.
  3. For developing a computer program or other method of producing a record from machine readable record, \$15 for each 15 minutes spent by any person.
  4. The costs, including computer costs, that the institution incurs in locating, retrieving, processing and copying the personal information requested if those costs are specified in an invoice that the institution has received.
7. (1) If a head gives a person an estimate of an amount payable under the Act and the estimate is \$100 or more, the head may require the person to pay a deposit equal to 50 per cent of the estimate before the head takes any further steps to respond to the request.
- (2) A head shall refund any amount paid under subsection (1) that is subsequently waived.
9. If a person is required to pay a fee for access to a record, the head may require the person to do so before giving the person access to the record.

[64] The police must include a detailed breakdown of the fee, and a detailed statement as to how the fee was calculated.<sup>34</sup>

[65] This office may review an institution's fee and determine whether it complies with the fee provisions in the *Act* and Regulation 823.

[66] The police's fee is broken down as follows:

*Search*

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<sup>34</sup> Orders P-81 and MO-1614.

6 hours × \$30/hour (\$7.50/15 minutes) = \$180

*Photocopying*

66 pages × \$0.20/page = \$13.20

Total fee: **\$193.20**

[67] In determining whether to uphold a fee, my responsibility under section 45(3) of the *Act* is to ensure that the fee is reasonable. The burden of establishing the reasonableness of the fee rests with the police. To discharge this burden, the police must provide me with detailed information as to how the fee have been calculated in accordance with the provisions of the *Act*, and produce sufficient evidence to support its claim.

[68] In their representations, the police explain that they had difficulties clarifying the request with the appellant and attempted to do so on multiple occasions. They point out that when asked, the appellant stated that she wanted everything. As such, the police explain that they made the decision to process the request as they normally do.

[69] For the reasons that follow, I uphold the police's fee in part. Section 6.1 of Regulation 823 does not permit the police to charge a fee for search when the requester is requesting their own personal information. Based on my review of the responsive records, I find that all of the records relate to the appellant and contain her personal information. As the appellant's request relates to records concerning her personal information, I find the police are not entitled to charge a search fee. As such, I removed the amount for search from the police's fee.

[70] I note that the police charged the rate that is allowable for photocopying. However, the records consist of 64 pages in total instead of 66 pages. As such, I reduced the photocopy fee to \$12.80. Finally, while I understand that the police had difficulties clarifying the request with the appellant this fact is not relevant to whether the police's fee is reasonable. Accordingly, I allow the police to charge a fee of \$12.80.

## **ORDER:**

1. I uphold the police's decision with respect to section 38(b).
2. I uphold the police's fee, in part. The police is permitted to charge \$12.80 only.
3. I order the police to disclose some of the withheld information in record 1, 2, 5, 10, 11, and 12 to the appellant by **June 27, 2023** but not before **June 20, 2023**. I have identified the portions that the police must disclose by highlighting them in yellow on the copy of the records provided to the police with this order.

4. In order to verify compliance with this order, I reserve the right to require the police to provide me with a copy of the records disclosed upon request.

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

\_\_\_\_\_ May 19, 2023

Lan An  
Adjudicator