Information and Privacy Commissioner,
Ontario, Canada

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

ORDER PO-4690

Appeal PA23-00538

Ministry of the Solicitor General

July 29, 2025

Summary: This appeal concerns a request made under the *Freedom of Information and Protection of Privacy Act* for access to the probation file of an offender who murdered three women in a series of highly publicized homicides involving intimate partner violence.

The ministry denied access to the offender's entire probation file.

In this order, the adjudicator rejects the ministry's claim that the probation file is exempt under section 49(e) (correctional records containing a requester's personal information). The adjudicator also rejects the ministry's argument that it does not have custody or control over some records contained in the probation file.

The adjudicator partially upholds the ministry's claim that portions of the probation file are exempt under section 19 (solicitor-client privilege).

The adjudicator also partially upholds the ministry's decision to deny access under section 21(1) on the grounds of personal privacy. She finds that disclosure of some portions of the probation file would not constitute an unjustified invasion of personal privacy under section 21(2)(f) because disclosure is desirable for subjecting the activities of government agencies to public scrutiny. She further finds that there is a compelling public interest that warrants disclosure of the offender's personal information in this case.

The adjudicator orders the ministry to disclose a severed version of the probation file to the appellant, after removing information that is: solicitor-client privileged, properly exempted under the applicable law enforcement provisions, or that belongs to individuals other than the offender and three victims.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, section 2(1) (definition of "personal information"), 10(1), 14(1)(c), 14(1)(l), 19, 21(1), 21(2)(a), 21(2)(f), 21(2)(h), 21(3)(a), 21(3)(d) and 49(e).

Orders Considered: Orders MO-1786, PO-3013, PO-3044 and PO-4375.

Cases Considered: *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)*, 2011 ONCA 32 (CanLII).

OVERVIEW:

[1] On September 22, 2015, an individual committed a series of fatal attacks in rural Ontario. Over the course of several hours, the offender traveled across the Ottawa Valley and murdered three women with whom he had past intimate or personal relationships. He was arrested later that same day after a brief manhunt. He was convicted in 2017 on three counts of first-degree murder and sentenced to life in prison with no eligibility of parole for 75 years.

[2] A coroner's inquest examined the role of domestic violence, the involvement of law enforcement, and broader systemic issues that may have contributed to the women's murders. The inquest's verdicts and recommendations were published in 2022.

[3] In 2024, the offender died in prison.

The request and appeal

[4] The homicides sparked widespread media coverage, and prompted public discussion regarding domestic and intimate partner violence and the systemic management of high-risk offenders. As details of the offender's past emerged, they revealed a history of violent behaviour toward intimate partners, encounters with law enforcement and prior involvement with the criminal justice system, fueling questions about the effectiveness of past interventions.

[5] A member of the media submitted a request to the Ministry of the Solicitor General (the ministry) for access under the *Freedom of Information and Protection of Privacy Act* (the *Act*) to "[c]opies of all of [the offender's] entire adult probation files."

[6] The ministry's search yielded a 453-page probation file, created before the offender was charged with and later convicted of the Ottawa Valley homicides.

[7] The ministry issued a decision denying access to the entire contents of the probation file, claiming the mandatory personal privacy exemption in section 21(1).[1] It also claimed the discretionary law enforcement exemptions in sections 14(1)(l) (facilitate commission of unlawful act or hamper control of crime) and 14(2)(d) (correctional

[1] With reference to the factor in section 21(2)(f) (highly sensitive).

records), which the ministry later replaced with section 49(e) (correctional records containing a requester's personal information).

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

[9] During mediation, the ministry added that it was also relying on the law enforcement exemption in section 14(1)(c) (reveal investigative techniques) and on the discretionary exemption in section 19 (solicitor-client privilege).[2]

[10] The appellant did not object to the late raising of these exemptions. The appellant claimed, however, that there is a compelling public interest in disclosure of portions of the record. Consequently, sections 14(1)(c), 19 and 23 (public interest override) were added as issues to the appeal.

[11] As the issues were not resolved in mediation, the appeal was transferred to the adjudication stage of the appeal process, where an adjudicator may conduct a written inquiry.

[12] I conducted an inquiry during which I received representations from the ministry and the appellant that were shared between them.

Notification of affected parties

[13] I also undertook efforts to locate and notify individuals whose interests might be affected by the disclosure of certain information contained in the records (affected parties), including victims' personal representatives.[3] I sent couriered notices to family members of each of the three victims. Although none of the notices were returned as undeliverable, I received no responses. I also conducted online searches, and asked for the ministry's assistance in locating the offender's former spouse. These efforts were unsuccessful.

[14] Following news of the offender's death, I contacted Correctional Services Canada (CSC) to ask whether it had contact information for any of the offender's next of kin. If any such information was available, I asked CSC to forward a notice on my behalf to the next of kin, informing them of the inquiry, and asking them to contact the IPC should they wish to participate. CSC circulated my correspondence internally and asked relevant staff to notify any next of kin for whom they had contact information. I did not receive any further response, including from the offender's next of kin. Despite these efforts to provide affected parties with an opportunity to participate, no next of kin or personal representatives of any of the deceased affected parties responded, with the result that only the appellant and the ministry submitted representations.

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[2] The ministry claimed section 14(1)(c) over one page of the probation file and section 19 over 63 pages.
[3] See section 28 of the *Act* regarding notice to affected persons.

Findings

[15] In this order, I reject the ministry's decision to rely on the section 49(e) exemption relating to requests for correctional records containing an individual's own personal information. I also reject the ministry's claim that certain records in the probation file are not in the ministry's custody or under its control. I find that the discretionary law enforcement exemption in section 14(1)(c) applies to exempt one page of the probation file on the grounds that it would reveal investigative techniques, and that section 14(1)(l) applies to other parts of the probation file. I also partially uphold the ministry's claim that parts of the probation file are subject to solicitor-client privilege under section 19(a).

[16] Regarding the personal information of the offender and the three deceased women – whether alone or mixed – I find that this information is not exempt under section 21(1) (except for details such as contact information pertaining solely to the victims that do not relate to the offender, the homicides, or the victims' interactions with police and authorities in the judicial system). I find that disclosure of this information is desirable for the purpose of subjecting government and its agencies to public scrutiny, and that this factor outweighs other factors favouring non-disclosure.

[17] For information about the offender's medical and employment history that I find falls within the presumptions against disclosure in sections 21(3)(a) and (d), I find there is a compelling public interest that clearly outweighs its protection, and I therefore order the ministry to disclose it.

[18] Regarding the personal information of individuals other than the offender and the three deceased victims, I find that it is exempt under section 21(1). I further find that there is no compelling public interest under section 23 that would override the section 21(1) exemption in relation to this information, and I uphold the ministry's decision not to disclose this information.

[19] As a result, I partially uphold the ministry's decision. I order the ministry to disclose a severed version of the probation file to the appellant, from which the following information is removed and withheld: (i) information that I have found to be exempt under sections 14(1)(c) and (l), and 19(a); (ii) certain personal information belonging to the three homicide victims; and (iii) personal information belonging to individuals other than the offender and his three homicide victims in its entirety.

RECORD:

[20] The record at issue is a 453-page probation file, consisting of various records created while the offender was subject to a judicially imposed probation order. The ministry claims the following exemptions over all or parts of the probation file:

Record (all or portions)	**Exemptions or sections claimed**

All	Section 21(1) (personal privacy)
All	Section 49(e) (correctional records)
Pages: 75-80, 105, 113-117, 126-132, 171-175, 391-403, 406-425	Custody or Control
Page 214	Section 14(1)(c) (reveal investigative techniques and procedures)
All	Section 14(1)(l) (facilitate commission of unlawful act/hamper control of crime)
Pages (all or part): 13-15, 18, 19, 24, 26, 33, 34, 40, 139, 150-152, 179, 180, 185, 191, 192, 204-205, 232-234, 237-240, 255-266, 276, 364, 365, 369, 370, 371, 372, 373, 376, 377, 385-388, 429, 437, and 449-453	Section 19 (solicitor-client privilege)
All information to which the personal privacy exemption in section 21(1) applies	Section 23 (public interest override)

ISSUES:

A. Does the discretionary personal privacy exemption at section 49(e), relating to correctional records, apply to the probation file?

B. Are certain records contained in the probation file "in the custody" or "under the control" of the ministry under section 10(1)?

C. Does the probation file contain "personal information" as defined in section 2(1) and, if so, whose personal information is it?

D. Does the mandatory personal privacy exemption in section 21(1) apply to the probation file?

E. Do the discretionary exemptions in sections 14(1)(c) and 14(1)(l), relating to law enforcement activities, apply to some or all of the probation file?

F. Does the discretionary solicitor-client privilege exemption at section 19 apply to certain records in the probation file?

G. Should the ministry's exercise of discretion under sections 14(1)(c), 14(1)(l) and 19 be upheld?

H. Is there a compelling public interest in disclosure of any information in the probation file that clearly outweighs the purpose of the section 21(1) exemption?

DISCUSSION:

Issue A: Does the discretionary personal privacy exemption in section 49(e), relating to correctional records, apply to the probation file?

[21] The ministry initially denied access to the probation file under section 14(2)(d), which applies to records containing information about the history, supervision, or release of a person under the control or supervision of a correctional authority. At the time, the offender was alive and incarcerated in a federal penitentiary.

[22] When the offender died in 2024, the ministry replaced its section 14(2)(d) claim with section 49(e), which allows the ministry to "refuse to disclose to the individual to whom the information relates personal information…that is a correctional record where the disclosure could reasonably be expected to reveal information supplied in confidence."[4] There is no dispute in the present appeal that the probation file is a correctional record.

[23] For the following reasons, I find that section 49(e) does not apply to the probation file, and I dismiss this claim outright.

[24] The ministry submits that section 49(e) applies because the probation file contains personal information about the offender and others that was supplied to the ministry in confidence. The ministry relies on the Court of Appeal's decision in *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)*,[5] arguing that, unlike other exemptions under the *Act*, section 49(e) does not require evidence of specific harm resulting from disclosure, and that the probation file meets the criteria established in that case.

[25] The *Act* establishes two distinct frameworks for access to records. Part II governs

[4] Section 49(e) states that: A head may refuse to disclose to the individual to whom the information relates personal information, … (e) that is a correctional record where the disclosure could reasonably be expected to reveal information supplied in confidence[.]
[5] 2011 ONCA 32 (CanLII).

general access to records held by institutions, including those that contain personal information belonging to individuals other than a requester. Part III governs requests for access to records that contain a requester's own personal information.

[26] Section 49(e) falls under Part III, meaning it can only apply where the requester is seeking access to their own personal information, including where it is mixed with that of others.

[27] The ministry does not dispute that the probation file does not contain the appellant's personal information,[6] and acknowledges in its representations that section 49 applies to individuals seeking access to their own personal information. The ministry contends, however, that if an individual can be denied access to their own personal information in correctional records supplied in confidence,[7] then a third party should not be entitled to that information either.

[28] The matter before the Court of Appeal arose in the context of an individual's request for access to his own institutional records under Part III of the *Act*. The court considered what records qualified as "correctional records" and whether they were exempt under section 49(e) based on their substance and the context of their creation. I find that a plain reading of section 49(e) confirms that it is only available where a requester is seeking access to their own personal information, and that the Court of Appeal's decision does not support extending the application of section 49(e) to cases where the requester is seeking access to someone else's personal information in records that do not contain their own.

Issue B: Are certain records in the probation file "in the custody" or "under the control" of the ministry under section 10(1)?

[29] The ministry claims that it "lacks the requisite custody or control" over certain records in the probation file, specifically, records generated by the court consisting of a non-communication order, prohibition orders, an Information, transcripts of court proceedings, and a Certification of transcript.

[30] Section 10(1) provides for a general right of access to records that are "in the custody or under the control of" an institution governed by the *Act*. It reads in part:

> 10(1) Every person has a right of access to a record or a part of a record in the custody or under the control of an institution unless…

[31] Under section 10(1), the right of access applies to a record that is in the custody

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[6] After receiving the ministry's representations, I asked the ministry whether it intended to pursue this claim, given that the probation file does not contain the requester's personal information. The ministry confirmed that it was proceeding with its section 49(e) claim.

[7] For example, where this information is mixed with another person's personal information and disclosure would result in an unjustified invasion of that other individual's personal privacy.

or under the control of an institution; it need not be both.[8] If the record is not in the institution's custody or under its control, none of the exclusions or exemptions need to be considered since the general right of access in section 10(1) would not be established.

[32] The courts and the IPC have applied a broad and liberal approach to the question of custody or control.[9] In deciding whether a record is in the custody or under the control of an institution, several factors are considered in context and in light of the purposes of the *Act*.[10] The purposes of the *Act* are, in part, to provide a right of access to information under the control of institutions in accordance with the principles that information should be available to the public, and that necessary exemptions from the right of access should be limited and specific.

[33] The IPC has applied a contextual, fact-specific analysis to determine whether an institution has custody or control of a record.[11] Physical possession alone does not establish custody or control. The factors considered by the IPC include the record's purpose and intended use;[12] whether the institution has a statutory power or duty to carry out the activity that resulted in the record's creation;[13] the degree of the record's integration into the institution's operations;[14] and whether its contents relate to the institution's mandate and functions.[15] If the institution has possession of records, the IPC must further consider whether it is more than bare possession, and the extent to which the institution has relied on the records.[16]

[34] The ministry relies on Order PO-3044 in support of its position. It submits that Order PO-3044 held that, "due to the independence of the judiciary, the Ministry may have possession of court records, but these records are nevertheless within the custody or control of the judiciary, and not the Ministry," so that the records should be obtained from the court. I find that Order PO-3044 does not assist the ministry in this case, and I reject the ministry's submission that the above-noted records are not in its custody or under its control.

[35] In Order PO-3044, the adjudicator considered whether the Public Guardian and Trustee (PGT) had custody or control of information in a database created and maintained by the Accountant of the Superior Court of Justice (the Accountant). The adjudicator

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[8] Order P-239.
[9] *Ontario (Criminal Code Review Board) v Hale*, 1999 CanLII 3805 (ONCA); *Canada Post Corp v Canada (Minister of Public Works)*, 1995 CanLII 3574 (FCA); Order MO-1251.
[10] *City of Ottawa v Ontario*, 2010 ONSC 6835 (Div. Ct.), leave to appeal refused (March 30, 2011), Doc. M39605 (C.A.).
[11] Orders 120, MO-1251, PO-2306 and PO-2683.
[12] Orders 120 and P-239.
[13] Order 120.
[14] Orders 120, P-912 and P-239.
[15] *Ministry of the Attorney General v Information and Privacy Commissioner*, 2011 ONSC 172 (Div. Ct.); *City of Ottawa v Ontario*, 2010 ONSC 6835 (Div. Ct.), leave to appeal refused (March 30, 2011), Doc. M39605 (C.A.).
[16] Order P-239 and *Ministry of the Attorney General v Information and Privacy Commissioner*, cited above.

found that the Accountant is a unique, segregated program within the PGT, and an officer of the court responsible for holding funds paid into court pursuant to Superior Court orders and various Ontario statutes. The adjudicator found that the Accountant had no independent discretion or operational use of the records, and that its actions dealing with the funds it held were done under the direct control of the courts.

[36] I find that although the records were generated by the court as part of proceedings involving the offender, they were incorporated into the probation file and used by probation officers in the course of supervising the offender. According to the ministry, this supervision was carried out by the ministry's Criminal Services Division (CSD). The ministry states that the CSD operates under the authority of the *Ministry of Correctional Services Act* (*MCSA*), which at section 5 mandates the ministry to "supervise the detention and release of inmates, parolees and probationers…."

[37] I find that these records form part of the ministry's operational file and were used in the administration and delivery of a ministry program, namely, the supervision of the offender while he was on probation. There is no evidence before me that the ministry's possession was subject to the court's direction or that the records were retained on the court's behalf. Rather, the ministry used them to carry out its mandate under the *MCSA*. This use and reliance show that the ministry had institutional control over these records.

[38] The ministry cannot circumvent its obligations under the *Act* simply because the records were created through court proceedings. Once the records were incorporated into the offender's probation file and used in the exercise of the CSD's functions, they came under the ministry's control. I am satisfied that the ministry possesses the records and exercises control over them for the purpose of section 10(1) of the *Act*.

Issue C: Does the probation file contain "personal information" as defined in section 2(1) and, if so, whose personal information is it?

[39] The personal privacy exemption in section 21(1) can only apply to "personal information" as that term is defined in the *Act*. I must therefore first decide whether the record contains personal in formation, and if so, whose.

[40] Section 2(1) defines personal information as "recorded information about an identifiable individual." Recorded information is information recorded in any format, including paper and electronic records.

[41] Information is "about" an individual when it refers to them in their personal capacity, meaning that it reveals something of a personal nature about them. Information is about an "identifiable individual" if it is reasonable to expect that they can be identified from the information either by itself or combined with other information.[17]

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

[42] Generally, information about an individual in their professional, official or business capacity is not considered to be "about" them, and the *Act* also contains specific provisions for information about an individual in such a capacity.[18] Specifically, sections 2(2.1) and (2.2) provide that the name, title, contact information or designation of an individual that identifies the individual in a business, professional or official capacity is not personal information.[19]

[43] Section 2(1) of the *Act* gives a non-exhaustive list of examples of personal information. It states that:

> "personal information" means recorded information about an identifiable individual, including,
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> (a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual,
>
> (b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,
>
> (c) any identifying number, symbol or other particular assigned to the individual,
>
> (d) the address, telephone number, fingerprints or blood type of the individual,
>
> (e) the personal opinions or views of the individual except where they relate to another individual,
>
> (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
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> (h) the individual's name where it appears with other personal information relating to the individual where the disclosure of the name would reveal other personal information about the individual.

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

[19] Even if an individual carries out business professional or official responsibilities from their dwelling and the contact information for the individual relates to that dwelling. Section 2(2) also states that a personal information does not include information about an individual who has been dead for more than thirty years.

Representations

[44] The ministry submits that the records in the probation file contain an extensive amount of personal information belonging to the offender and other individuals, including (i) information about the offender's criminal history, educational history, medical information, his views about himself and others, and his address and date of birth; and, (ii) identifying information about other individuals, including the offender's victims, and information about their relationships and interactions with the offender.

[45] The appellant does not dispute that the records contain "personal information."

Analysis and findings

[46] After reviewing the probation file, I find that it contains personal information about the offender, his victims, and other individuals, as defined in section 2(1).

[47] The file includes detailed information about the offender, which includes: his name and family status (paragraph (a)); details about his medical, criminal and employment history (paragraph (b)); his offender number (paragraph (c)); information about where he lived while on probation (paragraph (d)); and his personal views and opinions (paragraph (e)).

[48] I also find that the file contains personal information about the three women he killed. This includes their age and relationship status (paragraph (a)), and their names which, when read with other parts of the probation file, would reveal other personal information about them (paragraph (h)). The file includes concerns expressed about the offender's behaviour toward them (paragraph (e)), and the offender's views and opinions about them (paragraph (g)). Not all of this information applies equally to each of the three women, and some are associated with more or less information depending on their specific interactions with the offender and the justice system.

[49] The probation file further contains personal information about people other than the offender. These individuals are identified by name and by details of their relationships to the victims, by their relationships or connections to the offender, and some by their own interactions with law enforcement. I find that this is their personal information under paragraphs (g) and (h) of section 2(1).

[50] Finally, the probation file contains information about professionals employed or working with the ministry, or who interacted with the offender in a professional or official capacity. This includes the names and titles of probation officers, police officers and Crown counsel. I find that when these individuals are identified only in relation to their professional duties – such as supervising, assessing, or monitoring the offender as part of his probation – this is not considered their personal information under section 2(1). Rather, it is information about them acting in a business or professional capacity. Disclosure of their names, titles, or professional opinions about the offender would not reveal anything of a personal nature about them. Because this is not personal information,

it is not exempt and cannot be withheld under section 21(1).[20]

[51] Having found that the probation file contains personal information of multiple individuals, including the offender and his victims, I will next consider the ministry's position that the probation file is exempt under section 21(1) because disclosure would result in an unjustified invasion of personal privacy.

Issue D: Does the mandatory personal privacy exemption in section 21(1) apply to the probation file?

[52] One of the purposes of the *Act* is to protect the privacy of individuals with respect to their personal information held by institutions.[21] The mandatory personal privacy exemption in section 21(1) creates a general rule that prohibits an institution from disclosing another individual's personal information to a requester. The *Act* allows for exceptions to this general rule, which are set out in sections 21(1)(a) to (f). If any of the exceptions apply, an institution is required to disclose the information.

[53] The parties did not raise any exception other than section 21(1)(f) and I find that this is the only exception that is relevant in the circumstances. This exception allows for disclosure of personal information where the disclosure is not an unjustified invasion of personal privacy. For the following reasons, I find that this exception applies to some of the personal information in the probation file and that this information must, therefore, be disclosed.

Section 21(1)(f): disclosure is not an unjustified invasion of personal privacy

[54] Under section 21(1)(f), if disclosure of the personal information would not be an unjustified invasion of personal privacy, the personal information is not exempt and must be disclosed.

[55] Sections 21(2), (3) and (4) give guidance in determining whether disclosure of the information would be an unjustified invasion of personal privacy:

- section 21(2) sets out a list of considerations, or factors, that help in deciding whether disclosure would or would not be an unjustified invasion of personal privacy for the purpose of section 21(1)(f);
- section 21(3) lists the types of information the disclosure of which is presumed to constitute an unjustified invasion of personal privacy; and,
- section 21(4) lists circumstances in which the disclosure of personal information does not constitute an unjustified invasion of personal privacy, despite section

[20] Order PO-2225.
[21] Section 1(b) of the *Act*.

21(3). None of the circumstances listed in section 21(4) is relevant to the information at issue in this appeal.

[56] Section 21(3) should generally be considered first. If any of the presumptions in section 21(3) apply, disclosure of personal information is presumed to be an unjustified invasion of personal privacy. This means that the personal information cannot be disclosed unless there is a compelling public interest in disclosure that outweighs the purpose of the mandatory personal privacy exemption (otherwise known as the "public interest override" in section 23, which I discuss below).[22]

[57] Where no presumption against disclosure in section 21(3) applies to the information, the factors listed in section 21(2) are considered. To find that disclosure does not constitute an unjustified invasion of personal privacy, one or more factors and/or circumstances described in section 21(2) favouring disclosure must exist. The list of factors under section 21(2) is not exhaustive. This means that the ministry must also consider any circumstances that are relevant, even if they are not listed under section 21(2).[23]

[58] Accordingly, I will first consider whether any presumptions against disclosure in section 21(3) exist. Although neither party has argued that any of the presumptions apply, I have considered them because of the mandatory nature of the section 21 personal privacy exemption. If any presumptions apply, that information is exempt under section 21(1).

[59] Then, for the personal information that is not subject to a presumption, I will consider whether any factors in section 21(2) apply to weigh in favour of or against disclosure of that personal information, and will make a finding about whether the information is exempt under section 21(1). Further below, I consider whether any of the exempted personal information is subject to the public interest override.

Representations

The ministry's representations

[60] The ministry says that the probation file contains detailed and highly sensitive personal information collected pursuant to the CSD's statutory mandate of supervising the offender while he was subject to a probation order. It states that the records include case notes stored in the Offender Tracking Information System (OTIS), an internal electronic database used to track individuals under supervision, and which contains demographic details, institutional history, housing placements, and other personal data, including some information expressly marked as confidential.

[61] The ministry argues that this information was collected for the purpose of enabling

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[22] *John Doe v. Ontario* (*Information and Privacy Commissioner*), (1993), 13 O.R. (3d) 767 (Div. Ct).
[23] Order P-99.

the CSD to fulfill its supervisory obligations under the *MCSA*, and not with the expectation that it would ever be disclosed publicly. It states that disclosure, almost a decade after the homicides, would be unexpected and personally distressing to affected parties, including the surviving family members of the victims.

[62] The ministry further submits that the retention and use of this personal information are essential to the enforcement of probation orders, that the level of detail in the records reflects the seriousness and sensitivity of the information, and that the factor in section 21(2)(f) for highly sensitive information militates against its disclosure. It submits that the appellant seeks access to the sort of victim information to which access was denied in Order PO-4375. The ministry emphasizes that "the personal information in the probation file is highly sensitive because none of the affected third parties (or in the case of deceased affected parties, their families) are apparently aware of this appeal [and] seem to have no awareness that their personal information, or that of their loved ones, is subject to disclosure."

[63] The ministry also relies on the factor in section 21(2)(h), arguing that much of the personal information in the probation file was provided directly by affected third parties to enable the CSD to manage the offender's probation. It submits that this factor weighs strongly against disclosure, particularly given the sensitive context.

[64] As an additional, unlisted, factor, the ministry relies on the *Victims' Bill of Rights, 1995* (the *VBR*), asserting that disclosure would "arguably violate" its principles. The ministry notes that the *VBR* defines "victim" to include close family members of deceased victims, and that paragraph 1 of section 2 sets out the principle that "[v]ictims of crime should be treated with courtesy, compassion and respect for their personal dignity and privacy by justice system officials." The ministry argues that this provision binds the CSD as "justice system officials" and that any consideration of section 21 must include the *VBR*. The ministry says that in at least one order, Order PO-3407, the IPC recognized the *VBR* as a relevant factor favouring privacy protection.[24]

The appellant's representations

[65] The appellant argues that disclosure of the probation file is warranted in the unique and extraordinary circumstances of this case, emphasizing an enduring desirability to understand how the justice system responded to known risks and efforts to protect three women who were ultimately murdered by the same man with whom they had past relationships. She submits that the privacy concerns must be weighed against the need for transparency and accountability in the face of what she describes as a systemic failure.

[66] The appellant submits that the passage of time is a significant factor that must be considered in assessing whether disclosure of the records could reasonably be expected to cause significant personal distress (the application of the factor in section 21(2)(f)).

[24] Order PO-3407 also involved a request for access to probation records. The adjudicator upheld the ministry's decision to deny access to the records at issue.

She argues that any potential distress is mitigated by the fact that several affected parties, including family and friends of all three victims, have spoken publicly about the events in question. She refers to various media in which she submits they spoke openly about their feelings and experiences, and the events that led to the murders of their loved ones.

[67] The appellant asserts that there is a strong and ongoing public interest to understand how this tragedy occurred. She points to a CBC documentary titled *Why Didn't We Know?* as emblematic of the need for public scrutiny and argues that this interest engages section 21(2)(a) of the *Act*, which weighs in favour of disclosure where it serves the purpose of holding government institutions accountable.

[68] She describes the events as one of the most serious failures of the justice system in Canadian history, noting that the offender was previously known to authorities as violent, had threatened his ex-wife, and had violated probation conditions. She says that, despite this, women he had previously assaulted were not warned upon his release on probation and ended up murdered. The appellant submits that the probation file may shed critical light on the actions of government agencies leading up to the murders.

[69] She further asserts that although victims' personal information is often withheld from probation files, as she says was the case in Order PO-4375, such information is essential to understanding the full context in this particular case. She argues that at least two of the victims were directly involved in the offender's probation conditions, having sought protection from him through the justice system. She maintains that information about their efforts, experiences, and treatment by authorities is central to evaluating how the system responded to known risks, especially to the specific women whom he killed.

[70] The appellant also argues that information not solely about the offender may still be highly relevant to assessing the proper functioning of protective and supervisory systems. She submits that this weighs further in favour of disclosure of the victims' information, especially given the fact that they are not alive to share their accounts.

[71] She submits that the offender, by committing such egregious crimes, forfeited any reasonable expectation of privacy, and that there is a desire for the public to scrutinize the system's role using unfiltered records, as opposed to summaries of records curated for purposes of litigation or an inquest. She emphasizes that the names of the victims and their family members are already publicly known from criminal and family court proceedings and that the request is not aimed at revisiting that information, but at examining systemic response.

[72] The appellant disputes the ministry's reliance on the *VBR*, noting that the IPC has previously found it has no direct application to access requests under the *Act*,[25] and contends that the privacy interests protected by the *VBR* are already addressed through

[25] Citing Order PO-4375.

exemption provisions in the *Act*.

[73] On the issue of notification, the appellant submits that the ministry was best positioned to enforce the *VBR* and notify victims of the access request. Noting that the ministry itself did not notify victims or their families, she argues that it cannot now rely on not doing so as a reason to deny access.

Analysis and findings

Do any presumptions against disclosure in section 21(3) apply?

[74] Based on my review of the probation file, I find that it contains references to the offender's medical and employment history. I find that disclosure of this information is presumed to be an unjustified invasion of personal privacy pursuant to sections 21(3)(a) and (d), which state that:

> A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy where the personal information,
>
> (a) relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation;
>
> …
>
> (d) relates to employment or educational history[.]

[75] Once a presumed unjustified invasion of personal privacy is established under section 21(3), it cannot be rebutted by any factors or circumstances under section 21(2).[26] As a result, I find that information in the probation file about the offender's health or medical conditions and complaints, or about his employment history – including where such information is severed with any of the three deceased victims' personal information in a way that cannot reasonably be severed – is exempt because disclosure of this type of personal information is presumed to be an unjustified invasion of his personal privacy.

[76] Although I find this information is exempt under section 21(1), I will later consider whether it is subject to the public interest override in section 23, under Issue G, below.

Section 21(2): factors that weigh in favour of or against disclosure

[77] I will next consider whether the remaining information is exempt under section 21(1) by considering the possible application of factors weighing for or against disclosure under 21(2). Under this provision, an institution is required to consider "all the relevant circumstances" in determining whether a disclosure of personal information constitutes an unjustified invasion of personal privacy.

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[26] *John Doe v. Ontario* (*Information and Privacy Commissioner*), (1993), 13 O.R. (3d) 767 (Div. Ct.).

[78] The ministry relies on the fact that the personal information is highly sensitive (section 21(2)(f)) and was supplied in confidence (section 21(2)(h)). The ministry also relies on the *VBR* as an unlisted factor. The appellant, in contrast, argues that disclosure is desirable to enable public scrutiny of systemic responses (section 21(2)(a)) as a factor weighing in favour of disclosure.

Section 21(2)(f) and (h): highly sensitive / supplied in confidence

[79] Section 21(2)(f) requires an assessment of whether the personal information is highly sensitive such that its disclosure could reasonably be expected to cause significant personal distress. I find that this factor applies to the remaining personal information in the probation file, which contains sensitive information regarding personal relationships, criminal associations, supervision and risk assessments. I acknowledge the appellant's argument that family members of the victims have spoken publicly about the murders, and that they participated in both the criminal trial and a widely publicized coroner's inquest. I find that this reduces, to some extent the personal distress that might reasonably be expected from disclosing information in the file. However, given the subject of the file, I find that it is still reasonable to expect that some individuals, including those who may have spoken publicly and particularly that who have not, could experience significant personal distress if their information were disclosed.

[80] Section 21(2)(h) applies where the personal information was supplied in confidence. Much of the information in the probation file, with the exception of court-generated records that are public, was provided to facilitate the administration of the offender's probation. I find that this information was provided with an expectation that it would be treated confidentially and used for oversight purposes such as monitoring his compliance and assessing risk.

Section 21(2)(a): public scrutiny

[81] Section 21(2)(a) considers whether disclosure of information is desirable for the purpose of subjecting the activities of the government (as opposed to the views or actions of private individuals) and its agencies to public scrutiny.[27] In applying this factor, an institution should consider the broader interests of public accountability in assessing whether disclosure is "desirable" or appropriate to allow for public scrutiny of its activities.[28]

[82] I find that this is an exceptional case where the factor in section 21(2)(a) applies and weighs more heavily in favour of disclosing personal information about the offender and the women he killed. The probation file documents the government's awareness of and responsibility for managing an offender with a known history of intimate partner violence. Publicly available information described by the appellant indicates that at least two of the women actively sought help and engaged in formal processes to ensure their

[27] Order P-1134.
[28] Order P-256.

protection before he killed them.

[83] I also find that the personal information of the three deceased victims in this case can be distinguished from that of the victim in Order PO-4375. In Order PO-4375, I upheld the ministry's decision to deny access to a victim's personal information in an offender's probation file. In that case, a victim survived a single assault. Here, three women were murdered by one individual, and their earlier interactions with the justice system – particularly the specific concerns they expressed about the offender – were integral to the ministry's supervision of him for offences against at least one of them. I find that disclosing their personal information which reflects their engagement with the offender and the justice system is desirable to evaluate the government's actions and oversight.

[84] I acknowledge the ministry's broader concern that probation files typically involve significant privacy interests and have generally not been disclosed. However, this does not preclude disclosure in appropriate circumstances. The *Act* expressly permits disclosure where, as here, a balancing of relevant factors and interests favours transparency and supports disclosure. The facts of this case are extraordinary: three women, each previously in a personal or intimate relationship with the offender, were killed by him on a single day. The offender's history and violent conduct was known to authorities, and concerns about his repeated behaviour were documented. Taken together, I am satisfied that the factor in section 21(2)(a) weighs heavily in favour of transparency and outweighs the factors in sections 21(2)(f) and (h).

[85] I do not find that section 21(2)(a) goes as far as to support disclosure of basic biographical details about the three victims – such as contact information or unrelated identifiers – that do not pertain to the ministry's handling of risk or protective efforts. These details do not serve the purpose of scrutinizing government action and must be withheld.

[86] Similarly, I do not find that the desirability of subjecting government to public scrutiny under section 21(2)(a) outweighs the sensitivity and confidential nature of the personal information of other individuals, such as victims' family members or the offender's family members or associates, including where this personal information is mixed with that of the offender or the three deceased victims in a way that cannot reasonably be severed. I find that disclosure of this information could reasonably be expected to cause these individuals significant personal distress. As such, I agree that the factor in section 21(2)(f) prevails over this personal information, and I find it is exempt under section 21(1).

VBR as an unlisted factor favouring privacy protection

[87] Regarding the ministry's argument about the application of the *VBR*, I noted in Order PO-4375 that the *Act* prevails over any other Act unless the *Act* or other *Act* state

otherwise,[29] and I found that the *VBR* had no direct application in the circumstances. As in that case, I agree with the ministry that victims of crime must be treated with compassion and with consideration for their privacy interests.

[88] That said, the *Act* itself contains robust protections for personal privacy, including for victims. It also permits disclosure in exceptional circumstances, where balancing of the relevant factors supports it. I find that this is such a case. The disclosure I am ordering is limited to information about the deceased victims' involvement with the offender and agencies tasked with managing his risk. It excludes unrelated personal detail. I find that such disclosure is desirable for scrutinizing the systemic response in the circumstances, without undermining the dignity of which victims are deserving, or the spirit of the *VBR*.

Issue E: Do the discretionary exemptions in sections 14(1)(c) or (l), relating to law enforcement activities, apply to some or all of the probation file?

[89] The ministry claims the law enforcement exemption in section 14(1)(l) over the entire probation file, and 14(1)(c) over page 214. These state that:

> 14(1) A head may refuse to disclose a record if the disclosure could reasonably be expected to,
>
> > (c) reveal investigative techniques and procedures currently in use or likely to be used in law enforcement;
> >
> > (l) facilitate the commission of an unlawful act or hamper the control of crime.

[90] Sections 14(1)(c) and 14(1)(l) apply where a certain event or harm "could reasonably be expected to" result from disclosure of the record. The ministry, as the party resisting disclosure, must show that the risk of harm is real and not just a possibility.[30] However, it does 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.[31]

[91] The ministry, as the party resisting disclosure, cannot simply assert that the harms under section 14 are obvious based on the record. It 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, an institution should not assume that the harms under section 14 are self-evident and can be proven simply

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[29] Section 67(1) of the *Act*.
[30] *Merck Frosst Canada Ltd.* v. *Canada* (*Health*), [2012] 1 S.C.R. 23.
[31] *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 (CanLII).

by repeating the description of harms in the *Act.*[32]

[92] 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.[33]

Section 14(1)(c) (reveal investigative techniques and procedures and page 214

[93] To meet the requirements of section 14(1)(c), the ministry must show that disclosure of the technique or procedure to the public could reasonably be expected to interfere with its effective use.

[94] The technique or procedure must be "investigative" in nature, meaning that it must relate to investigations. The exemption does not apply to techniques or procedures related to "enforcing" the law.[34] The ministry must show that disclosure would reveal something about how the technique operates in a way that could reasonably be expected to compromise its effectiveness.

[95] The ministry relies on section 14(1)(c) to withhold page 214 of the probation file. This page contains a structured checklist for assessing risk in domestic violence situations. It forms part of a Domestic Violence Supplementary Report (DVSR), which appears to have been completed by a police constable.

[96] The ministry submits that this checklist is not known to be public. It argues that disclosing it could allow individuals to anticipate police questions and adjust their behaviour and responses during interactions with police officers, compromising the reliability of those interactions and potentially putting victims at greater risk.

[97] I accept the ministry's position that the information in the checklist is investigative in nature and used during investigations. This aligns with previous findings in IPC Orders MO-1786 and PO-3013, on which the ministry relies.

[98] In Order MO-1786, the adjudicator found that the municipal equivalent of section 14(1)(c) – section 8(1)(c) of the *Municipal Freedom of Information and Protection of Privacy Act*[35] – applied to portions of records that detailed investigative techniques and procedures police were to follow when attending a victim's residence to investigate domestic assault allegations.

[99] In Order PO-3013, one of the records at issue was a domestic violence risk-factor checklist. Referring to Order MO-1786, the adjudicator found that "disclosure of the

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[32] Orders MO-2363 and PO-2435.
[33] *Ontario* (*Attorney General*) *v. Fineberg* (1994), 19 O.R. (3d) 197 (Div. Ct.).
[34] Orders P-1340 and PO-2034.
[35] R.S.O. 1990, c. M.56.

checklist of risk factors used to assess the threat posed by domestic violence could reasonably be expected to reveal investigative techniques or procedures currently in use or likely to be used in law enforcement."

[100] I agree with the ministry that the DSVR's main purpose is to help police assess risk in domestic violence cases using information collected during investigations. I have no evidence before me that this document was filed in a court proceeding or circulated beyond law enforcement use. Although it appears that the DSVR in this case was attached to a show cause report, the ministry has indicated that the checklist is not known to be publicly available. While court proceedings are generally open to the public, I do not have enough evidence to find that the show cause report containing this DSVR was filed in, read into, or otherwise made part of, a public court record.

[101] Based on the evidence before me, I am satisfied that disclosure of page 214 could reasonably be expected to reveal investigative techniques or procedures currently in use in law enforcement investigations and that it is therefore exempt under section 14(1)(c).

Section 14(1)(l): facilitate commission of an unlawful act or hamper the control of crime

[102] For section 14(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.

[103] The ministry claims that disclosure of the probation file could have such effects within the meaning of section 14(1)(l). The ministry submits that disclosure could discourage victims, law enforcement agencies and other third parties from cooperating with the CSD. It says that, if it becomes widely known that information these entities provide to the CSD may be disclosed without their consent, they may be less willing to cooperate or share information. It says that this, in turn, could impair the CSD's ability to obtain the information it needs to properly administer probation orders, and thereby facilitate the commission of unlawful acts or hamper the control of crime.

[104] Section 14(1)(l) requires more than speculative or generalized concerns.[36] In this case, the ministry has not identified specific information within the probation file, beyond broad reference to the file as a whole, that would reveal confidential techniques, strategies, or methods of supervision that may not already be known or understood by individuals familiar with the justice system. While the ministry relies elsewhere in its representations on the age of the file and underlying events as supporting diminished interest in the file, the ministry has not explained how disclosing information about an offender who is now deceased, and relating to what the ministry says were events that occurred nearly a decade ago, could reasonably be expected to make unlawful acts easier

[36] *Ontario (Community Safety and Correctional Services) v Ontario (Information and Privacy Commissioner)*, 2014 SCC 31 (CanLII).

or hamper crime control efforts today.

[105] However, based on my review of the file, and consistent with past IPC orders, I find that certain portions of the file – specifically, information derived from the Canadian Police Information Centre (CPIC) and overlapping internal law enforcement data – do fall within section 14(1)(l). Past IPC orders have consistently held that CPIC and similar operational databases used by law enforcement contain sensitive internal information the disclosure of which could reasonably be expected to interfere with crime prevention or investigative functions.[37] As such, I find that this information is exempt under section 14(1)(l) and must be withheld.

[106] While I accept that the ministry has a legitimate interest in preserving cooperation with the CSD, I am not persuaded that disclosure in this case of remaining portions of the probation file could reasonably be expected to produce the chilling effect the ministry suggests, or undermine the CSD's ability to carry out its mandate in a reasonable way.

[107] Accordingly, I find that section 14(1)(l) applies only to the CPIC and overlapping OTIS information contained in the file and that the remainder of the information in the probation file is not exempt under section 14(1)(l).

Issue F: Does the discretionary solicitor-client exemption at section 19 apply to certain records in the probation file?

[108] The ministry submits that 63 pages in the probation file are exempt under section 19 because they are solicitor-client privileged.[38]

[109] Section 19 exempts certain records from disclosure, either because they are subject to solicitor-client privilege, or because they were prepared by or for legal counsel for an institution. Section 19 states in part:

> 19. A head may refuse to disclose a record,
>
> (a) that is subject to solicitor-client privilege;
>
> (b) that was prepared by or for Crown counsel for use in giving legal advice or in contemplation of or for use in litigation[.]

[110] Section 19(a) is based in common law, while section 19(b) is a statutory privilege. The statutory and common law privileges, although not identical, exist for similar reasons.

The rationale for the section 19(a) common law solicitor-client communication privilege is to ensure that a client may freely confide in their lawyer on a legal matter.[39] This

[37] See, for example, Orders PO-3075 and PO-4646.
[38] Pages 13-15, 18, 19, 24, 26, 33, 34, 40, 139, 150-152, 179, 180, 185, 191, 192, 204-205, 232-234, 237-240, 255-266, 276, 364, 365, 369, 370, 371, 372, 373, 376, 377, 385-388, 429, 437, and 449-453.
[39] Orders PO-2441, MO-2166 and MO-1925.

privilege protects direct communications of a confidential nature between lawyer and client, or their agents or employees, made for the purpose of obtaining or giving legal advice.[40] It covers not only the advice and request for advice, but also communications between the lawyer and client aimed at keeping both informed that advice can be sought and given.[41] Confidentiality is an essential component of solicitor-client communication privilege, and the institution must demonstrate that the communication was made in confidence, either expressly or by implication.[42] The same rationale exists for the statutory privilege, but it is specific to Crown counsel. Section 19(b) confirms that records prepared by or for Crown counsel for use in giving legal advice are solicitor-client privileged communications. It also confirms that records prepared by or for Crown counsel in contemplation of, or for use in, litigation are protected by litigation privilege.

Representations

[111] The ministry says that the above-noted pages consist primarily of email communications involving a Crown attorney, either where legal advice was sought or received, or where the Crown attorney was copied for the purpose of being kept informed about an issue.

[112] The ministry argues that these communications fall within the protected continuum of solicitor-client communications, and are therefore protected under section 19(a), which the ministry submits is designed to ensure that a client, in this case the CSD, can communicate freely and without reservation with its legal counsel, the Crown attorney. The ministry maintains that this protection applies not only to communications explicitly requesting legal advice, but also to those made in confidence to keep legal counsel apprised of developments relevant to the offender's probation. The ministry submits that there is no indication that anyone outside of those involved in the communications is aware of the emails, and that there has been no waiver of privilege.

[113] The appellant acknowledges that any document that is clearly a communication between the ministry and its counsel for the purpose of obtaining legal advice is privileged and has been properly exempted. However, the appellant submits that the fact that a communication was sent to legal counsel is not, on its own, enough to establish solicitor-client privilege. She argues that for privilege to apply, the ministry must demonstrate that the communication was made for the purpose of seeking or obtaining legal advice. The appellant further submits that merely informing a lawyer of a state of affairs does not necessarily attract privilege. She also argues that solicitor-client privilege does not extend to statements of fact or documents that are not otherwise privileged, and that such documents do not become privileged merely by being copied to or shared with legal counsel.

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[40] *Descôteaux v. Mierzwinski* (1982), 141 D.L.R. (3d) 590 (S.C.C.).
[41] *Balabel v. Air India*, [1988] 2 W.L.R. 1036 at 1046 (Eng. C.A.); *Canada (Ministry of Public Safety and Emergency Preparedness) v. Canada (Information Commissioner)*, 2013 FCA 104.
[42] *General Accident Assurance Co. v. Chrusz* (1999), 45 O.R. (3d) 321 (C.A.); Order MO-2936.

Analysis and findings

[114] Based on my review of the records, I find that, with the exception of pages 19, 33, 34, 40, 276 and 450-453,[43] the communications identified by the ministry are privileged and therefore exempt under section 19(a). These include emails where legal advice is sought or provided, and communications that reflect ongoing legal consultation, including where legal advice is given without being explicitly requested. I find that these records (which will be severed in the copy of the records sent to the ministry with this order), fall within the protected continuum of solicitor-client communications. I further find that, where information that I have found to be privileged is duplicated on page 18, it is likewise exempt under section 19(a) and must not be disclosed.

[115] However, I find that pages 19, 33, 34, 40, 276 and 450-453 are not exempt under section 19(a). These pages consist of activity logs, and court documents regarding a variation application. Based on my review, these records were not created for the purpose of seeking or providing legal advice, nor do they reveal such advice.

[116] Accordingly, I find that section 19(a) applies to those records in which legal advice is sought or given, and to communications that form part of the continuum of solicitor-client communications for that purpose. I find that section 19(a) does not apply to communications that simply log or set out factual information, or that were not created for the purpose of obtaining or providing legal advice.

Issue G: Should the ministry's exercise of discretion under sections 14(1)(c), 14(1)(l) and 19 be upheld?

[117] I am satisfied that the ministry properly exercised its discretion in withholding information under sections 14(1)(c), 14(1)(l) and 19(a) of the *Act*. I find that the ministry considered the purposes of the respective exemptions and the context of each.

[118] Under section 14(1)(c), the ministry considered the sensitive context in which the record is used and the broader implications of disclosure for law enforcement effectiveness and victim protection. Under section 14(1)(l), the ministry took into account the purpose of the law enforcement exemption and also the broader context of public safety and law enforcement in applying it. Finally, with respect to section 19(a), the ministry considered the importance of maintaining solicitor-client confidentiality and the content and context of the communications at issue.

[119] There is no evidence before me that the ministry acted in bad faith, exercised its discretion for an improper purpose, that it considered irrelevant factors or failed to consider relevant ones in exercising its discretion under any of these provisions. I therefore uphold the ministry's exercise of discretion under sections 14(1)(c), 14(1)(l) and 19(a).

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[43] Exempt personal information has been severed from these pages.

Issue H: Is there a compelling public interest in disclosure of any information in the probation file that clearly outweighs the purpose of the section 21(1) exemption?

[120] Section 23 of the *Act*, known as the "public interest override," provides for the possible disclosure of information would otherwise be exempt as personal information under section 21.[44]

[121] Section 23 does not apply to information exempt under sections 14(1)(c) or (l), or 19(a). My consideration of section 23 therefore does not apply to information that I have found to be exempt under these sections.

[122] Further, my consideration of section 23 is only relevant to the personal information that I have found to be exempt under section 21(1), and not to portions of the offender's and the victims' personal information I have found are not exempt under section 21(1) and which must be disclosed in any event.

[123] For section 23 to apply, two requirements must be met: there must be a compelling public interest in disclosure, and this interest must clearly outweigh the purpose of the exemption.[45] In considering whether there is a public interest in disclosure of the probation file, the first question to ask is whether there is a relationship between it and the *Act's* central purpose of shedding light on the operations of government.[46]

[124] The IPC has stated in previous orders that, in order to find a compelling public interest in disclosure, the information in the record must inform or enlighten the public about the activities of their government or its agencies, adding in some way to the information the public has to make effective use of the means of expressing public opinion or to make political choices.[47] The IPC has defined the word "compelling" as "rousing strong interest or attention."[48] A public interest is not automatically established because the requester is a member of the media.[49]

[125] When it comes to considering the public interest override in relation to section 21(1), one must consider the fundamental purpose of the mandatory personal privacy exemption, which is to ensure that the privacy of individuals is maintained except where infringements on this interest are justified.[50] This exemption reflects one of two key purposes of the *Act*, which is to protect the privacy of individuals with respect to personal

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[44] Section 23 states that, "An exemption from disclosure of a record under sections 13, 15, 15.1, 17, 18, 21, 21 and 21.1 does not apply where a compelling public interest in the disclosure of the record clearly outweighs the purpose of the exemption.
[45] Order P-244.
[46] Orders P-984 and PO-2607.
[47] Orders P-984 and PO-2556.
[48] Order P-984.
[49] Orders M-773 and M-1074.
[50] Order P-568.

information about themselves held by institutions.[51]

Representations

[126] The ministry submits that the circumstances surrounding the murders and the offender's actions have already been subject to significant public scrutiny through the criminal trial and coroner's inquest. It argues that any public interest considerations under section 23 have therefore already been adequately addressed. The ministry questions the relevance of invoking the public interest override at this stage, stating: "we do not understand why there is a 'compelling public interest' in the disclosure of records at this time, following the inquest and the trial, and up to a decade after many of these records were created."

[127] The appellant submits that the public interest in this case, and the profound impact the murders had on public confidence in the integrity of the justice system, are extreme. She describes the murders as one of the most egregious examples of intimate partner violence in Canadian history – a case she says represents a watershed moment for the issue in Ontario and Canada. The appellant says that public interest in this case and its aftermath continues in spite of the passage of time, and that, although a coroner's inquest concluded in 2022, public demands for substantive change and implementation of its recommendations have only intensified.

[128] The appellant argues that the issues addressed in the offender's probation file engage broader systemic questions about how domestic violence is handled within the justice system, questions she says remain urgent and ongoing. She submits that this context strongly favours disclosure under section 23.

[129] According to the appellant, the case exemplifies an extraordinary failure by the justice and correctional systems to protect victims. She emphasizes that the victims did everything they knew to do – reporting to police, engaging in the court process, obtaining convictions, using safety tools like panic buttons and surveillance systems, and working closely with victim services and violence against women advocates and probation staff. Despite these efforts, the offender murdered three of his intimate partners, two of whom the appellant says were the reason for his past involvement with law enforcement and the criminal justice system.

[130] The appellant submits that the offender repeatedly breached court orders without consequences, highlighting systemic dysfunction. The appellant argues that disclosure would serve to educate both the public and those currently navigating intimate partner violence on the limitations of the system. She submits that charges involving intimate partner violence occur nearly daily in Ontario and Canada, and that public awareness of how the system failed in this case, through access to unfiltered records, could assist others in better navigating, scrutinizing, and advocating within it. She asserts that this

[51] Order PO-2805.

kind of information should not be available only through court proceedings or an inquest for which it has been specifically prepared.

[131] The appellant says that, although the landscape has changed since these very high-profile murders, and some recommendations have been initiated or are in progress, advocates continue to raise concerns that not enough has changed and that efforts are slow-moving. She argues that women facing intimate partner violence today should have the opportunity to compare their experiences to this case, and that access to the records could provide urgently needed insights to those who are currently seeking guidance.

[132] The appellant acknowledges that section 23 has, in some cases, been found not to apply where other processes or forums have addressed public interest concerns. However, she argues that the scope and nature of the criminal trial and coroner's inquest resulted in limitations on the ability to examine underlying records. She submits that both proceedings were constrained to some degree. For example, she says that at trial, the testimony concerning the justice system was limited in scope, submitting that probation officers testified primarily about personal impressions and the offender's own lapses, and that police testimony focused on their immediate response to the murders and post-incident investigative steps, rather than offering broader insight into systemic issues. She says that, by its nature, inquest materials were curated to align with the scope of the inquest, such that the full probation file was not available to an expert, and key witnesses lacked immediate and direct knowledge.

[133] The appellant submits that, like past inquests, the outcomes of this one have faced criticism for delays and slow implementation. As an example, she notes that, although the province announced in April 2024 that it would declare intimate partner violence an epidemic, it has yet to do so, notwithstanding that this was the first of the inquest's 86 recommendations.

Analysis and findings

Personal information of the offender and his three homicide victims

[134] I find that, to the extent that offender's personal information in the probation file sheds light on risk identification, his supervision and the effectiveness of victim protection, there is a compelling public interest in the disclosure of portions of it that outweighs the personal privacy exemption in section 21(1). My finding applies to information about the offender that I have found above to be exempt under section 21(1), both standing alone and where it is mixed with that of his three homicide victims.

[135] The file contains original, contemporaneous information about what authorities knew, observed, or acted upon in the months leading up to the murders. In this context, I accept the appellant's submission that the public interest extends beyond the outcomes of trials and inquests to include access to unfiltered records that may illuminate systemic shortcomings and inform potential reforms.

[136] Although a criminal trial and a coroner's inquest have occurred, I accept the appellant's submission that their scope and evidentiary limitations may not have captured the full systemic context in which the killings occurred. I also accept the appellant's argument that information in the probation file may hold unique value in understanding the potential failure of protective measures intended to safeguard the women who were ultimately murdered by the offender.

[137] I also find that the public interest in this case is neither abstract nor speculative. The appellant has connected the records to ongoing, real-world concerns about how victims of intimate partner violence seek protection and how institutional systems can fail them, even when they follow every prescribed step. I accept that disclosure may assist to examine why, despite authorities' detailed knowledge of the offender's history, including specific and known risks to women and intimate partners, protective measures still failed. For example, as the appellant notes, at least one victim was not informed of the offender's release. I am also satisfied that disclosure may be of practical value to victims' advocates, service providers, and individuals navigating current risk management frameworks.

[138] Taken together, I find the public interest here to be both immediate and systemic. For these reasons, I find that there is a compelling public interest in this personal information and that it outweighs the purpose for its exemption under section 21(1).

No compelling public interest in disclosure of personal information of other individuals

[139] I find that there is no compelling public interest in disclosing the personal information of individuals other than the offender and his three homicide victims. This includes family members of both the offender and his three deceased victims, and other individuals whose personal information appears in the probation file because of their interactions with the offender or these victims, including where their information is mixed with that of the offender or victims in a way that cannot reasonably be severed.

[140] Neither party has identified a compelling public interest in disclosure of this information, and I find no basis to conclude that there is one. I am not persuaded that this disclosure is required to inform or advance scrutiny or discourse surrounding the circumstances of these homicides. This is especially so in light of my finding that the personal information of the offender and his three homicide victims must be disclosed, including where it can be severed from the personal information of individuals other than the offender and his three victims and where it relates to concerns about the offender.

CONCLUSION:

[141] For all of these reasons, I will order the ministry to disclose a severed version of the probation file to the appellant, by removing personal information belonging to individuals other than the offender and the three deceased victims that I have found to

be exempt under section 21(1), including where that personal information is mixed with the personal information of the offender or the three victims. The ministry must also remove any information that I have found to be exempt under sections 19(a), 14(1)(c), and 14(1)(l).

ORDER:

1. I dismiss the ministry's claims under section 49(e) and 10(1).
2. I uphold the ministry's decision to deny access to page 214 under section 14(1)(c).
3. I uphold the ministry's application of sections 21(1), 19 and 14(1)(l) to the probation file, in part.
4. I order the ministry to disclose to the appellant a severed version of the probation file, in accordance with the copy of the record being provided with the ministry's copy of this order. The ministry shall disclose a copy of the severed probation file to the appellant by **September 4, 2025,** but not before **August 29, 2025.**
5. In order to verify compliance with this order, I reserve the right to require the ministry to provide me with a copy of the probation file disclosed to the appellant.

Original Signed by: July 29, 2025

Jessica Kowalski
Adjudicator