

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER PO-4689

Appeal PA21-00649

Ministry of the Solicitor General

July 28, 2025

Summary: An individual made a request under the *Freedom of Information and Protection of Privacy Act* to the Ministry of the Solicitor General for all records that the Norfolk County OPP had about him for a specified period. The ministry granted the individual access to some information and records. It refused access to the remaining information and records claiming that their disclosure would be an unjustified invasion of another individual's personal privacy (section 49(b)).

In this order, the adjudicator finds that some information is not exempt, and she orders the ministry to disclose it. She upholds the ministry's decision to withhold the remaining information.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended, sections 2(1) (definition of "personal information"), 2(3), 21(2)(f), 21(3)(b), and 49(b).

Orders Considered: Orders P-16, P-300, M-430, M-41, PO-2412, MO-2019, PO-3742, PO-2560, PO-4426, PO-4535.

OVERVIEW:

[1] The appellant made an access request under the *Freedom of Information and Protection of Privacy Act* (the *Act*) to the Ministry of the Solicitor General (the ministry) for his "personal data" held by the Norfolk County Ontario Provincial Police (the OPP) for the 13 years preceding the request.

[2] The ministry issued a decision granting the appellant partial access to the responsive records. The ministry withheld some information and records on the basis of the discretionary exemption in section 49(a) (discretion to refuse requester's own information), read with the law enforcement exemption at section 14(1)(l), and the discretionary exemption in section 49(b) (personal privacy) of the *Act*.¹ In addition, the ministry withheld some information because it was not responsive to the request.

[3] The appellant disagreed with the ministry's decision and appealed it to the Information and Privacy Commissioner of Ontario (the IPC).

[4] The IPC attempted to mediate the appeal. During mediation, the appellant confirmed that he did not seek access to the police code information denied under section 49(a), read with section 14(1)(l), of the *Act* and to the information the ministry withheld as not responsive. As a result, the police code information and the ministry's claim of section 49(a) with 14(1)(l) to that information were removed from the scope of the appeal. The only information remaining at issue in the appeal at the end of mediation was the information the ministry withheld under the personal privacy exemption.

[5] As a mediated resolution was not achieved, the appeal was moved to the adjudication stage. An IPC adjudicator decided to conduct an inquiry under the *Act* and obtained representations from the ministry and the appellant. The appeal was then transferred to me to continue the inquiry. I decided that I did not need to hear from the parties further before rendering my decision.

[6] For the reasons that follow, I partially uphold the ministry's decision. I find that some information withheld under the personal privacy exemption is not exempt, and I order the ministry to disclose it to the appellant. I uphold the ministry's decision to withhold the remaining information.

RECORDS:

[7] At issue is the withheld information in 258 pages of OPP records, which include reports, a witness statement, and officers' handwritten notes.

ISSUES:

- A. Do the records contain "personal information" as defined in section 2(1) and, if so, whose personal information is it?

¹ The ministry relied on sections 21(2)(f) and 21(3)(b) to deny access under the personal privacy exemption.

- B. Does the discretionary personal privacy exemption at section 49(b) apply to the withheld information?

DISCUSSION:

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

[8] To decide which sections of the *Act* may apply, I must first determine whether the records contain “personal information” and, if so, to whom the personal information relates.

[9] Section 2(1) of the *Act* defines “personal information” as “recorded information about an identifiable individual.” Information is “about” the individual when it refers to them in their personal capacity, which means that it reveals something of a personal nature about the individual. Generally, information about an individual in their professional, official or business capacity is not considered to be “about” the individual.² However, information relating to an individual in a professional, official or business capacity may still be “personal information” if it reveals something of a personal nature about the individual.³

[10] 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.⁴

[11] Section 2(1) of the *Act* gives a list of examples of personal information. It states, in part:

“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,

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

³ Orders P-1409, R-980015, PO-2225 and MO-2344.

⁴ Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.).

- (c) any identifying number, symbol or other particular assigned to the individual,
- (d) the address, telephone number, fingerprints or blood type of the individual,
- (e) the personal opinions or views of the individual except if they relate to another individual,
- (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.

The ministry's representations

[12] The ministry submits that the records contain personal information of the appellant and other individuals (the affected parties). The ministry relies on Order P-230 to argue that the definition of "personal information" must be interpreted broadly.

[13] The ministry states that the affected parties' personal information includes their names, dates of birth, telephone numbers, and home addresses. It says the personal information also consists of the affected parties' statements that are likely to reveal their identities, opinions and actions. Further, the ministry says the affected parties are identified in the records, either expressly or by implication, as witnesses, complainants or victims in relation to incidents that involved the appellant or as being otherwise involved in OPP investigations.

[14] The ministry argues that the OPP employees' Workplace Identification Numbers (WIN) also constitute personal information. The ministry cites Orders PO-3742 and PO-4336 to submit that WIN numbers qualify as personal information because they are an assigned number, which, when linked to the name of an employee, reveals something of a personal nature about the employee.

[15] The ministry submits that it properly severed the records by providing the appellant with some of his personal information while withholding the affected parties' personal information. The ministry relies on Order PO-2055 to submit that severing identifying information may not remove the personal information from the records because the records relate to law enforcement investigations.

[16] The appellant does not provide representations on this issue.

Analysis and findings

The information that qualifies as "personal information"

[17] I find that all the records contain the appellant's personal information. The records relate to the incidents involving the appellant and include information relating to the appellant's age, sex [paragraph (a) of the definition in section 2(1)], medical, psychiatric and criminal history [paragraph (b)], address and telephone number [paragraph (d)], views and opinions [paragraphs (e) and (g)], and name where it appears with other personal information about him [paragraph (h)]. The records also contain other information of a personal nature within the meaning of the introductory wording of the definition of "personal information" found in section 2(1) of the *Act*, including evidence related to the appellant that the OPP gathered during its investigations.

[18] Further, I find that all the records contain the affected parties' personal information. This includes age, sex, identifying number, address and telephone number, views and opinions of another individual about them, and the affected parties' names where they appear with other personal information (such as information identifying them as victims, complainants or witnesses, and describing their interactions with the OPP), within the meaning of paragraphs (a), (c), (d), (g) and (h) of the definition of personal information in section 2(1) of the *Act*. In two instances, even though the affected parties acted in their professional capacities, their names constitute "personal information" within the meaning of section 2(1)(h) because the disclosure of the names would reveal other personal information about them, namely the fact that they contacted the OPP.

[19] I find that, in many instances, the appellant's personal information is mixed with the affected parties' personal information. Given the nature of the information and the incidents described, I find that the appellant's personal information in these portions cannot be severed from the affected parties' personal information.

[20] However, in a few other instances, the appellant's personal information is not mixed with the affected parties' personal information and can be severed. The appellant's personal information, standing alone, cannot be withheld under section 49(b) because its disclosure, by definition, cannot be an unjustified invasion of another individual's personal privacy.⁵ I will order the ministry to sever this personal information of the appellant and release it to him.

[21] I agree with the ministry and find that the WIN numbers of OPP employees in the records qualify as "personal information" in accordance with paragraph (c) of the definition of "personal information" in section 2(1) of the *Act*.⁶ In addition, I find that one record contains information about an OPP officer's employment history, which qualifies as "personal information" under paragraph (b) of the definition of "personal information"

⁵ Orders PO-2560 and PO-4426.

⁶ Orders PO-3742 and PO-4535.

in section 2(1) of the *Act*.

The information that does not qualify as "personal information"

[22] Based on my review of the records, there is a significant amount of withheld information that does not qualify as "personal information." This includes the names, titles and/or contact information of two paramedics, doctors, nurses, several OPP officers, a coroner, and a pathologist. This also includes details about these individuals and two hospital staff performing their professional duties. Section 2(3) of the *Act* confirms that "personal information" does not include the name, title and contact information or a designation of an individual that identifies the individual in a professional capacity. Section 2(3) applies to the withheld names, titles, and/or contact information of two paramedics, doctors, nurses, several OPP officers, a coroner, and a pathologist because that information appears in a professional context and does not reveal something of a personal nature about these individuals. Similarly, the withheld descriptions of professional duties are about OPP officers and other individuals in their professional capacity, and there is nothing inherently personal in these descriptions that would take the information from the professional into the personal sphere. I find that this withheld information that sets out professional contact information and descriptions of professional duties does not qualify as personal information under the *Act*.

[23] Finally, there is other information that the ministry withheld that does not qualify as personal information: names, addresses and contact information of two hospitals, document titles, name of an investigating institution, occurrence numbers, titles of alleged incidents, date and time of alleged incidents, and Uniform Crime Reporting (UCR) clearance status. Personal information, as defined in section 2(1) of the *Act*, can only relate to natural persons.⁷ Therefore, the names, addresses and contact information of hospitals do not qualify as "personal information." Prior IPC orders have held that occurrence numbers do not constitute "personal information," and I apply the same approach in this appeal.⁸ Like occurrence numbers, the document titles, the name of the investigating institution, and UCR clearance status do not reveal something of a personal nature about an individual and do not constitute "personal information." Regarding the remaining information, where there is no reasonable expectation that an individual could be identified from the date, time and title of alleged incidents, I find that such information also does not qualify as "personal information."

[24] The ministry does not claim any other discretionary exemption to withhold this information, and there is no evidence before me that any mandatory exemption applies. Since I have found that this information does not qualify as personal information and is not exempt under section 49(a) or (b), I will order the ministry to disclose it to the appellant.

⁷ Orders P-16, P-300, and M-430.

⁸ Orders M-41, PO-2412, and MO-2019.

[25] The appellant seeks access to all the withheld personal information, his own and that of other individuals. Therefore, I will next determine whether a personal privacy exemption applies to the remaining withheld personal information. Since all the records contain the appellant's personal information, I will assess any right of access that the appellant may have to the withheld information under the discretionary personal privacy exemption at section 49(b) of the Act.

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

[26] Under the section 49(b) exemption, if a record contains the personal information of both the appellant and another individual, the ministry may refuse to disclose the other individual's personal information to the appellant if disclosing that information would be an "unjustified invasion" of the other individual's personal privacy.

[27] Sections 21(1) to (4) provide guidance in deciding whether disclosure would be an unjustified invasion of the other individual's personal privacy. If any of the exceptions in section 21(1)(a) to (e) apply, disclosure would not be an unjustified invasion of personal privacy, and the information is not exempt from disclosure under section 49(b). Section 21(4) lists situations where disclosure would not be an unjustified invasion of personal privacy. There is no evidence before me to suggest that the exceptions in section 21(a) to (e) or situations in section 21(4) apply to the withheld information.

[28] If sections 21(1)(a) to (e) and 21(4) do not apply, the decision-maker,⁹ in deciding whether the disclosure of the personal information in the records would be an unjustified invasion of personal privacy under section 49(b), must consider and weigh the factors and presumptions in sections 21(2) and (3) and balance the interests of the parties.¹⁰

The ministry's representations

[29] The ministry submits that disclosure of the withheld information would constitute an unjustified invasion of the affected parties' privacy. It states that the affected parties are not aware of the appeal and have not consented to disclosure of their personal information.

[30] The ministry argues that disclosure of the withheld information is presumed to be an unjustified invasion of the affected parties' personal privacy because the withheld information was compiled and is identifiable as part of investigations into possible violations of law [the presumption in section 21(3)(b)]. The ministry says that the records were created during law enforcement investigations and document the OPP's attendance at various locations in response to a complaint or an incident and contain details of the investigations. The ministry adds that the fact that charges might not have been laid in many instances is not determinative of whether the presumption applies. The ministry

⁹ The institution or, on appeal, the IPC.

¹⁰ Order MO-2954.

relies on Orders PO-3273 and PO-3301 to support its position.

[31] The ministry further argues that there is a reasonable expectation that the disclosure of the withheld information would cause significant personal distress to the affected parties [the factor in section 21(2)(f)]. The ministry says that the OPP investigated highly sensitive issues related to the appellant,¹¹ and the affected parties had a reasonable expectation that their personal information collected during the OPP investigations would only be shared for a related law enforcement purpose.¹² The ministry further says that the personal information of individuals who are identified in police records as complainants, witnesses or suspects has previously been found by the IPC to be "highly sensitive."¹³

[32] With respect to the WIN numbers of OPP employees, the ministry submits that their disclosure could be expected to be distressing to the employees because it would reveal something of a personal nature about them given that their names have already been disclosed. The ministry says that someone who has WIN numbers and employee names might be able to obtain additional human resources information about these employees. The ministry argues that the possibility of someone accessing human resources information without consent could be significantly distressing to employees whose human resources information is at issue.¹⁴

The appellant's representations

[33] The appellant says that the OPP has been harassing him for over a decade. The appellant provides several examples of what he claims is harassing behaviour. The appellant says that on one occasion, the OPP did not investigate a break-in at his residence. He claims that on another occasion, when the OPP attended his home to conduct a wellness check, OPP officers kicked down five doors, and an OPP dog caused the appellant injuries. The appellant says that he has been followed, pulled over, threatened and treated like a criminal by the OPP. The appellant submits that he seeks access to the records to take legal action against the OPP and hold it accountable.

Analysis and findings

The presumption in section 21(3)

Section 21(3)(b): an investigation into a possible violation of law

[34] Having reviewed the records, I find that the presumption in section 21(3)(b), which only requires that there be an investigation into a *possible* violation of law,¹⁵ applies to

¹¹ The ministry relies on Order PO-3301.

¹² The ministry relies on Order MO-3649.

¹³ The ministry relies on Order P-1618.

¹⁴ The ministry relies on Orders PO-3742 and PO-4336.

¹⁵ Orders P-242 and MO-2235.

the affected parties' personal information in some records. These are records in which it is evident that the affected parties' personal information was gathered during various OPP investigations into possible violations of law. Previous IPC orders have confirmed that the section 21(3)(b) presumption may apply even if no criminal proceedings were started following the investigations.¹⁶ The presumption in section 21(3)(b) weighs against the disclosure.

[35] However, some records do not relate to investigations into possible violations of law, and I find that the presumption in section 21(3)(b) does not apply to those records. Based on my review of the records, I observe that, in one instance, the OPP was called to provide assistance exercising its authority under the *Mental Health Act*. I adopt the analysis in prior IPC orders that held that the requirements of the section 21(3)(b) presumption are not met where the police exercise their authority under the *Mental Health Act*.¹⁷

[36] In several other instances, the OPP was involved in matters that did not involve violations of law. As the presumption at section 21(3)(b) requires that an investigation be into a possible violation of law, where the police are involved in matters that do not engage violations of law, the presumption cannot apply. In addition, the OPP generated one record after the completion of an investigation. In accordance with prior IPC orders, I find that the record generated after the completion of an investigation is not compiled as part of an investigation, and therefore the presumption in section 21(3)(b) does not apply to it.¹⁸

The factors in section 21(2)

21(2)(d): fair determination of rights

[37] While the appellant does not expressly cite this factor, his representations engage this factor. The appellant says that he seeks access to the records to start a legal proceeding against the OPP. He claims that OPP officers harassed him and caused him a severe injury and describes two specific instances that he says demonstrate the OPP's harassment. He also lists other conduct of the OPP that, in his view, constitutes harassment.

[38] The factor in section 21(2)(d) weighs in favour of allowing requesters to obtain another individual's personal information where the information is needed to allow them to participate in a court or tribunal process. The IPC uses a four-part test to decide whether this factor applies. All four parts of this test must be met for the section 21(2)(d) factor to apply:

¹⁶ The presumption can also apply to records created as part of a law enforcement investigation where charges were laid but subsequently withdrawn (Orders MO-2213, PO-1849 and PO-2608).

¹⁷ Orders MO-1384, MO-3465, and MO-3713.

¹⁸ Order M-734.

1. Is the right in question a right existing in the law, as opposed to a non-legal right based solely on moral or ethical grounds?
2. Is the right related to a legal proceeding that is ongoing or might be brought, as opposed to one that has already been completed?
3. Does the personal information have some bearing on or is it significant to the determination of the right in question?
4. Is the personal information required in order to prepare for the proceeding or to ensure an impartial hearing?¹⁹

[39] The appellant's representations do not address all four parts of the test. His reference to a legal proceeding against the OPP for harassment and his allegations about the OPP's conduct do not establish the four parts of the test. Even if I were to accept that the basis for the legal proceeding that the appellant contemplates is a right existing in law and that the withheld information has some bearing on or is significant to the determination of the right in question, I have no information from the appellant about the fourth part of the test. The appellant does not explain how the withheld information – the personal information of the affected parties – is *required* to prepare for the proceeding or to ensure an impartial hearing. Since all four parts of the test must be met and the fourth part of the test is not met, I find that the factor at section 21(2)(d) does not apply.

21(2)(f): highly sensitive information

[40] I find that the affected parties' withheld information, other than OPP employees' WIN numbers and employment history, is highly sensitive. The OPP gathered the affected parties' personal information during investigations into possible criminal offences or during other interactions with the affected parties. Aside from the personal information of OPP employees, the withheld personal information is that of victims, witnesses and complainants. Given the context in which the information was collected, the status of the affected parties, and the content of the records, I find that there is a reasonable expectation that disclosure of the affected parties' personal information would cause the affected parties significant personal distress.²⁰ The factor at section 21(2)(f) weighs against disclosure.

[41] With respect to WIN numbers of OPP employees, I do not consider them highly sensitive information within the meaning of section 21(2)(f). The adjudicator in Order PO-4535 found that WIN numbers are not more sensitive than other type of personal information, which, by definition, reveals something of a personal nature about the

¹⁹ See Order PO-1764; see also Order P-312, upheld on judicial review in *Ontario (Minister of Government Services) v. Ontario (Information and Privacy Commissioner)* (February 11, 1994), Toronto Doc. 839329 (Ont. Div. Ct.).

²⁰ Orders PO-2518, PO-2617, MO-2262 and MO-2344.

individual to whom it belongs. While the adjudicator did not find WIN numbers to be highly sensitive, she accepted the ministry's evidence about the risk associated with the disclosure of WIN numbers and viewed the risk as a non-listed factor weighing against the disclosure. I agree with this approach and adopt it in this appeal.

[42] As stated above, I accept the ministry's representations about the risks associated with the disclosure of WIN numbers and consider the risks as a non-listed factor weighing against the disclosure.

Balancing of the presumptions and factors

[43] I find that disclosure of the withheld information would constitute an unjustified invasion of the affected parties' personal privacy and, therefore, the withheld information qualifies for exemption under section 49(b). Having found that the presumption at section 21(3)(b) applies to a significant portion of the withheld records, the factor at section 21(2)(f) applies to the personal information of the affected parties other than OPP employees, and an unlisted factor applies to the personal information of OPP employees – all of which weigh in favour of privacy protection – I am satisfied that, balancing the interests of the parties as required under section 49(b), the presumption and two factors are sufficient to establish that disclosure of the withheld personal information would be an unjustified invasion of the affected parties' personal privacy. Aside from the appellant's personal information that I order to be disclosed, the appellant has been granted access to his personal information that could be severed from the affected parties' personal information and, since there are no factors favouring disclosure of the remaining withheld information, his right of access must yield to the privacy interests of the affected parties.

The absurd result

[44] The IPC has held that an institution might not be able to rely on the section 49(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 that situation, withholding the information might be absurd and inconsistent with the purpose of the exemption.²¹ However, if disclosure is inconsistent with the purpose of the exemption, the absurd result principle may not apply.²²

[45] The ministry submits that the absurd result principle does not apply because disclosure would be inconsistent with the purpose of the personal privacy exemption – protecting the personal privacy of the affected parties whose personal information was collected as part of law enforcement investigations. The ministry relies on Order PO-2291 to support its position. Further, the ministry says that it is unclear how much knowledge the appellant has about the contents of the responsive records.

[46] While the appellant does not provide representations on the application of the

²¹ Orders M-444 and MO-1323.

²² Orders M-757, MO-1323 and MO-1378.

absurd result principle, I have considered whether it applies because the appellant provided some information to the OPP. I find that the absurd result principle does not apply. First, there is no evidence before me about what specific information is within the appellant's knowledge, other than the information that was clearly provided to the OPP by the appellant. The ministry has disclosed to the appellant some of the information he provided to the OPP. Second, the disclosure of the remaining information, which consists of the affected parties' personal information, would be inconsistent with the purpose of the personal privacy exemption. The personal information was collected during OPP investigations into possible criminal offences or as part of other interactions with the affected parties. As I have found, it is reasonable to conclude that, given the context in which the personal information was collected, its disclosure would cause significant personal distress to the individuals to whom it belongs.

The exercise of discretion

[47] The section 49(b) exemption is discretionary. This means that the ministry can decide to disclose the affected parties' personal information to the appellant even if doing so would result in an unjustified invasion of the affected parties' personal privacy. The ministry must exercise its discretion. On appeal, the IPC may determine whether the ministry failed to do so or whether, in exercising its discretion, the ministry did so in bad faith or for an improper purpose; it took into account irrelevant considerations; or it failed to take into account relevant considerations.

[48] The ministry submits that it considered the expectations of the public that personal information be protected when it forms part of law enforcement investigations, especially where affected parties are unaware that their personal information is subject to disclosure pursuant to an appeal before the IPC. The ministry also considered a concern that disclosure of the records may subject the affected parties, who are victims, complainants, and witnesses, to harm.

[49] The appellant did not provide representations on the ministry's exercise of discretion.

[50] I uphold the ministry's exercise of discretion. The ministry considered the interests that the personal privacy exemption seeks to protect, the nature of the information, and the extent to which it is sensitive to the affected parties. There is no evidence before me that the ministry took into account irrelevant considerations or exercised its discretion in bad faith or for improper purpose.

ORDER:

1. I order the ministry to disclose to the appellant the information that I have highlighted in orange on a copy of the records that I have provided to the ministry

together with a copy of this order.²³ The ministry is to send the information to the appellant by **August 27, 2025**.

2. I uphold the ministry's decision with respect to the remainder of the withheld information.

Original Signed by: _____

Anna Kalinichenko
Adjudicator

July 28, 2025

²³ I am ordering the ministry to disclose to the appellant information in 114 pages of the records.