Information and Privacy Commissioner,
Ontario, Canada

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

ORDER MO-3451

Appeal MA16-421-2

Guelph Police Services Board

May 30, 2017

Summary: The appellant requested all records about himself from the Guelph Police Services Board (police). The police granted the appellant partial access to the responsive records. The police withheld some information, relying on the discretionary exemptions in section 38(a) (discretion to refuse requester's own information), in conjunction with section 8(1)(c) (reveal investigative techniques and procedures), and section 38(b) (personal privacy). The appellant appealed the police's decision and asserted that additional responsive records should exist. The police's search for records is upheld as reasonable. Except for some information already known to the appellant that must be disclosed, the police's decision under section 38(b) and related exercise of discretion is upheld. Sections 38(a) does not apply to the remaining withheld information, which must be disclosed to the appellant.

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

Orders and Investigation Reports Considered: Order MO-3371, MO-2269-I.

Cases Considered: *R. v Quesnelle*, [2014] 2 SCR 390, 2014 SCC 46 (CanLII).

OVERVIEW:

[1] The appellant requested all records involving him from the Guelph Police Services Board (the police).

[2] The police issued a decision granting access to some of the information in the records responsive to his request. The police referenced sections 8(1)(c) and 8(1)(l) (law enforcement), 14(1) (personal privacy), 38(a) (discretion to refuse requester's own information) and 38(b) (personal privacy) of the *Act* as the basis for withholding the remaining information. The police also advised the appellant to provide written consent from two affected parties in order to be allowed access to the affected party's information in the records, but the appellant did not do so.

[3] The appellant was not satisfied with the police's partial disclosure decision and appealed the decision to this office. During the mediation stage of the appeal, the police withdrew its reliance on section 8(1)(l) of the *Act* but added that some withheld information was not responsive to the request.

[4] The appellant continued to pursue access to all of the withheld information and expressed the view that additional responsive records exist. As a mediated resolution of the appeal was not possible, the appellant elected to proceed to the adjudication stage of the appeal process, where an inquiry is held.

[5] During the inquiry, I invited representations from the police, the affected parties and the appellant. The police and the appellant submitted representations, which were shared in accordance with *IPC Practice Direction 7*. The affected parties did not submit written representations.

[6] This order upholds the police's decision to withhold information under section 38(b), except for some withheld information the appellant already knows. The remaining information, withheld under sections 38(a) in conjunction with section 8(1)(c), is ordered disclosed. The police's search is upheld as reasonable.

RECORDS:

[7] The records at issue comprise withheld information on seven pages of records, with the following titles:

1. Record 1 – PRIDE Subject Profile (2 pages)
2. Record 2 - General Occurrence Report (1 page)
3. Record 3 - Occurrence summary (1 page)
4. Record 4 - General Occurrence Report (2 pages)
5. Record 5 - CPIC Request (1 page).

[8] The second page of Record 1 and the only page of Record 5 were withheld as not responsive to the appellant's request.

[9] The only information withheld in Record 3 was withheld under section 38(a) in conjunction with section 8(1)(c).

[10] The remaining withheld information (information on page 1 of Record 1 and in Records 2 and 4), is withheld either under section 38(a) in conjunction with section 8(1)(c) or under section 38(b), or under both section 38(a) and 38(b).

[11] The information withheld under sections 38(a) and 38(b) primarily comprises contact information (address and telephone numbers) of two affected parties and police codes, most commonly police codes that describe certain geographic areas. Some statements in the General Occurrence Reports have also been withheld.

ISSUES:

[12] The issues in this order are:

A. What records are responsive to the appellant's request?

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

C. Does the discretionary exemption at section 38(b) apply to the information withheld under that section?

D. Does the discretionary exemption at section 38(a), in conjunction with section 8(1)(c), apply to the remaining withheld information?

E. Did the police properly exercise its discretion?

F. Did the police conduct a reasonable search for records?

DISCUSSION:

A. What records are responsive to the appellant's request?

[13] Section 17 of the *Act* imposes certain obligations on institutions when responding to requests for access to records. Institutions must adopt a liberal interpretation of a request, in order to best serve the purpose and spirit of the *Act*. To be considered responsive to the request, records must "reasonably relate" to the request.[1]

[14] The police withheld the second page of Record 1, an Occurrence Report, because it contained only report headings with no information in them. However, in a

[1] Orders P-880 and PO-2661.

detailed index of records it provided to the appellant, the police disclosed the headings and the fact they contained no information, so there is no information on this page that has not been disclosed to the appellant. As all the information has been disclosed I do not need to make a finding regarding the responsiveness of page 2 of Record 1.

[15] The police also withheld a record (Record 5) demonstrating that a search of the CPIC database had been completed as part of the police's efforts to locate records responsive to the appellant's request. The index of records supplied to the appellant explains that Record 5 was a record showing that a CPIC search for the appellant had been conducted and that there were no results. As the record was generated in the course of the police conducting a search for responsive records, it is not itself a record responsive to the appellant's request. On this basis, though its contents have already been disclosed, I uphold the police's decision that it is not responsive to the appellant's request.

B. Does the record contain "personal information" as defined in section 2(1) and, if so, to whom does it relate?

[16] In order to determine which sections of the *Act* may apply, it is necessary to decide whether the record contains "personal information" and, if so, to whom it relates. The term "personal information" is defined in section 2(1):

> "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 if they relate to another individual,
>
> (f) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and

> replies to that correspondence that would reveal the contents of the original correspondence,
>
> (g) the views or opinions of another individual about the individual, and
>
> (h) the individual's name if it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual;

[17] The list of examples of personal information under section 2(1) is not exhaustive. Therefore, information that does not fall under paragraphs (a) to (h) may still qualify as personal information.[2]

[18] To qualify as personal information, the information must be about the individual in a personal capacity and it must be reasonable to expect that an individual may be identified if the information is disclosed.[3] As a general rule, information associated with an individual in a professional, official or business capacity will not be considered to be "about" the individual.[4]

Analysis

[19] I have reviewed the information that falls within the scope of the appellant's request. I find that, with the exception of one sentence, the information comprises the personal information of the appellant and of two affected parties. The personal information of the appellant includes his name, contact information and opinions about him. The withheld information also includes the personal information of two affected parties who had interactions with the police, including their names, addresses, telephone numbers, dates of birth and some statements that include opinions. The personal information in the records falls within the scope of paragraphs (a), (b), (d) (e) and (h) of the definition of personal information.

[20] The one sentence that contains only the appellant's personal information is the last sentence of the second to last paragraph of Record 2, which, unlike the other information withheld in that paragraph, contains only the personal information of the appellant and not of an affected party, so section 38(b) can not apply to it. As the sentence was also withheld under section 38(a), I will consider it when discussing that section.

[21] Since the records contain the appellant's personal information, as well as that of

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[2] Order 11.
[3] Order PO-1880, upheld on judicial review in Ontario (Attorney General) v. Pascoe, 2002 CanLII 30891 (ON CA).
[4] Orders P-257, P-427, P-1412, P-1621, R-980015, MO-1550-F and PO-2225.

the affected parties, I will now consider sections 38(a) and 38(b) to determine whether to uphold the police's decision to withhold information from the appellant.

C. Does the discretionary exemption at section 38(b) apply to the information withheld under that section?

[22] Section 36(1) of the *Act* gives individuals a general right of access to their own personal information held by an institution. Section 38 provides a number of exemptions from this right. Under section 38(b), where a record contains personal information of both the requester and another individual, and disclosure of the information would be an "unjustified invasion" of the other individual's personal privacy, the institution may refuse to disclose that information to the requester. Since the section 38(b) exemption is discretionary, the institution may also decide to disclose the information to the requester.

[23] Sections 14(1) to (4) provide guidance in determining whether disclosure would be an unjustified invasion of personal privacy. I will discuss these provisions further below.

[24] If any of paragraphs (a) to (c) of section 14(4) apply, disclosure is not an unjustified invasion of personal privacy and the information is not exempt under section 38(b). The police submit that section 14(4) has no application and it is not raised by the appellant. From my review of the records, I agree that section 14(4) does not apply.

[25] If the information falls within any of paragraphs (a) to (e) of section 14(1), disclosure is also not an unjustified invasion of personal privacy and the information is not exempt under section 38(b).

[26] For section 14(1)(a) (consent) to apply, the consenting party must provide a written consent to the disclosure of his or her personal information in the context of an access request.[5] The affected parties whose personal information appears in the records did not consent to disclosure of the withheld information that relates to them, so section 14(1)(a) does not apply.

[27] Neither party addresses the other disclosure criteria in sections 14(1)(b) to (e), and from my review of the records none of these sections apply.

[28] I will therefore proceed to determine whether the disclosure of the personal information in the records would be an unjustified invasion of personal privacy under section 38(b) after considering and weighing the factors and presumptions in sections 14(2) and (3), and balancing the interests of the parties.[6]

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[5] See Order PO-1723.
[6] Order MO-2954.

Section 14(3)(b): investigation into possible violation of law

[29] If any of paragraphs (a) to (h) of section 14(3) apply, disclosure of the information is presumed to be an unjustified invasion of personal privacy under section 38(b). The appellant does not address section 14(3). The police submit that the presumption listed at section 14(3)(b) applies, which states:

> A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy if the personal information,
>
> > was compiled and is identifiable as part of an investigation into a possible violation of law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation;

[30] This presumption requires only that there be an investigation into a possible violation of law.[7] Even if no criminal proceedings were commenced against any individuals, section 14(3)(b) can still apply.

[31] The police say that the general occurrence reports in issue (Records 2 and 4) relate to complaints by the appellant about criminal activity, and therefore are within the scope of section 14(3)(b). For Records 2 and 4, I am satisfied that the information at issue was compiled and is identifiable as part of a police investigation arising from the appellant's allegations regarding criminal activity. Record 1 is a summary page of information about the appellant and the affected parties. The information appears to have been collected by police through its contact with the appellant and affected parties as part of its investigation of the appellant's allegations. I find, therefore, that the presumption at section 14(3)(b) applies to the information withheld under section 38(b) in Records 1, 2 and 4.

Section 14(2) factors

[32] Section 14(2) also lists various factors that may be relevant in determining whether disclosure of personal information would constitute an unjustified invasion of personal privacy.[8] Some of the factors listed in section 14(2), if present, weigh in favour of disclosure, while others weigh in favour of non-disclosure. The list of factors under section 14(2) is not exhaustive. The institution must also consider any circumstances that are relevant, even if they are not listed under section 14(2).[9]

[33] The appellant did not address section 14(2). The police say they did not rely on section 14(2). However, in their submissions the police say that the information at issue

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[7] Orders P-242 and MO-2235.
[8] Order P-239.
[9] Order P-99.

was supplied in confidence directly to the police by the affected parties' to assist with its investigation. I have therefore determined that section 14(2)(h) may be a relevant factor.

[34] Section 14(2)(h) applies if both the individual supplying the information and the recipient had an expectation that the information would be treated confidentially, and that expectation was reasonable in the circumstances. Section 14(2)(h) therefore requires an objective assessment of the reasonableness of any confidentiality expectation.[10] In Order MO-2830, Adjudicator Colin Bhattacharjee stated that whether an individual supplied his or her personal information to the police in confidence during an investigation is contingent on the particular facts, and such a determination must be made on a case-by-case basis. This approach has been adopted in subsequent orders.[11] Having reviewed the records and the representations, I find that some of the personal information of the affected parties was supplied to the police in confidence. I cannot be more specific without disclosing the identity of the affected parties or the nature of the information supplied.

[35] I therefore find that section 14(2)(h) is a factor that weighs in favour of withholding the information supplied by the affected parties at issue in this appeal. In the context, I am satisfied that the information provided to police by the affected parties was provided with an expectation that the police would keep the information confidential, even though there is no direct evidence that any explicit confidentiality assurance was provided by police.[12]

[36] I am satisfied that no other section 14(2) or unlisted factors arise from my review of the parties' representations and the records.

Does the "absurd result" principle apply?

[37] According to this principle, where the appellant originally supplied the information, or the appellant is otherwise aware of it, the information may not be exempt under section 38(b), because to withhold the information would be absurd and inconsistent with the purpose of the exemption.[13]

[38] The police submit that the absurd result principle does not apply because the information withheld was neither provided by the appellant, nor was the appellant aware of this information when it was collected. The police say all information the appellant provided to police and that the appellant received from the police was disclosed to him.

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[10] Order PO-1670.
[11] See for example Order MO-3393.
[12] My finding is consistent with the statements of Karakatsnis J. in *R. v Quesnelle*, 2014 SCC 46, [2014] 2 SCR 390 that there is generally a reasonable expectation of privacy in information provided to police.
[13] Orders M-444 and MO-1323.

[39] The absurd result principle has been applied in cases where the information is clearly within the requester's knowledge.[14] I find the absurd result principle applies to the portion of the appellant's residential telephone number where it is withheld in the records because it is clearly known to the appellant.

Is disclosure an unjustified invasion of personal privacy?

[40] I have found above that the presumption at section 14(3)(b) applies because the records were compiled as part of an investigation into a possible violation of law. In addition, some of the information withheld under section 38(b) was provided confidentially within the meaning of section 14(2)(h), a factor that also weighs against disclosure. The affected parties did not consent to disclosure of their personal information. There are no factors in favour of disclosure. Except for the address information, it would not be an "absurd result" to withhold the information at issue. As a result, I find that disclosing the information withheld under section 38(b), except the address information, would be an unjustified invasion of personal privacy. The information at issue is exempt from disclosure, subject to my finding regarding the police's exercise of discretion.

[41] The information to which section 38(b) applies is:

- the affected parties' contact information on page 1 of Record 1 and on page 1 of Record 4, except for information which duplicates information already disclosed to the appellant in other parts of the records and therefore would not satisfy section 38(b);
- the first three sentences withheld by the police in the second to last paragraph of Record 2.
- all of the withheld information on page 2 of Record 4.

[42] I note that in reaching my conclusions I have carefully reviewed and taken into account the appellant's representations, though, for the most part, the representations do not address the issue of whether the disclosure of the personal information of other individuals would be an unjustified invasion of their personal privacy.

[43] I will now consider whether section 38(a) applies to the information withheld under that provision. I will not consider the application of section 38(a) to the information I found could be withheld under section 38(b).

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[14] Orders MO-1196, PO-1679 and MO-1755.

D. Does the discretionary exemption at section 38(a), in conjunction with section 8(1)(c), apply to the remaining withheld information?

[44] As noted above, section 38 provides a number of exemptions from the general right of access to one's own personal information under section 36(1). The police submit that section 38(a), in conjunction with section 8(1)(c), applies to the remaining withheld information, which comprises three sentences in Record 2 and police codes in Record 1 at page 1, in Records 2 and 3, and at page 1 of Record 4. Sections 38(a) and 8(1)(c) of the *Act* state:

> 38. A head may refuse to disclose to the individual to whom the information relates personal information,
>
> > (a) if section 6, 7, 8, 8.1, 8.2, 9, 10, 11, 12, 13 or 15 would apply to the disclosure of that personal information.
>
> 8.(1) A head may refuse to disclose a record if the disclosure could reasonably be expected to,
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> …
>
> > (c) reveal investigative techniques and procedures currently in use or likely to be used in law enforcement

[45] Section 38(a) of the *Act* recognizes the special nature of requests for one's own personal information and the desire of the legislature to give institutions the power to grant requesters access to their personal information.[15]

[46] The term "law enforcement" used in several parts of section 8 is defined in section 2(1) and applies to a police investigation into a possible violation of the *Criminal Code.*[16]

[47] It is not enough for an institution to take the position that the harms under section 8 are self-evident from the record or that the exemption applies simply because of the existence of a continuing law enforcement matter.[17] The institution must provide evidence about the potential for harm. It must demonstrate a risk of harm that is well beyond the merely possible or speculative although it need not prove that disclosure will in fact result in such harm. How much and what kind of evidence is needed will depend on the type of issue and seriousness of the consequences.[18]

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[15] Order M-352.
[16] Orders M-202 and PO-2085.
[17] Order PO-2040 and *Ontario (Attorney General) v. Fineberg*, 1994 CanLII 10563 (ON SC).
[18] *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)*, 2014 SCC 31 (CanLII) at paras. 52-4.

[48] In order to meet the "investigative technique or procedure" requirement under section 8(1)(c), the police must show that disclosure of the technique or procedure to the public could reasonably be expected to hinder or compromise its effective utilization. The exemption normally will not apply where the technique or procedure is generally known to the public.[19] The techniques or procedures must be "investigative". The exemption will not apply to "enforcement" techniques or procedures.[20]

[49] The police's representations regarding the information withheld under section 8(1)(c) describe it as "police related coding and investigative information."

[50] The police submit the withheld codes "includes numerical codes that police use to classify police responses within our records management system and also communication codes that officers use to exchange information with our dispatch centre." The police's detailed index of records describes the information as "police related coding information."

[51] The police state that the "investigative information" "includes police notes and statements regarding whether the behaviour of a party appears to be criminal or not." The police's index of records states that "police investigative information was also redacted throughout."

[52] The police state with reference to the coding and investigative information that "these types of information are not generally known to the public."

[53] I note that previous orders of this office have found that certain police codes are exempt from disclosure pursuant to section 8(1)(l). However, the police withdrew any reliance on the discetionary exemption in section 8(1)(l) to withhold the information at issue prior to this inquiry.

[54] The police's representations do not explain how the coding information meets the requirements of section 8(1)(c). Section 8(1)(c) protects "investigative techniques or procedures" not "investigative information." The police's representations do not identify any investigative technique or procedure, or explain how any investigative technique or procedure would be revealed if the withheld information is disclosed. The police's representations do not provide evidence about the potential for harm required to establish that section 8(1)(c) applies. They also do not demonstrate that any alleged risk of disclosure of an investigative technique or procedure is well beyond the merely possible or speculative, as required for the application of the exemption.[21]

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[19] Orders P-170, P-1487, MO-2347-I and PO-2751.
[20] Orders PO-2034 and P-1340.
[21] *Ontario (Community Safety and Correctional Services) v Ontario (Information and Privacy Commissioner)*, 2014 SCC 31 (CanLII).

[55] With regards to the withheld sentences in Record 2, the first withheld sentence[22] is an opinion about the appellant made by a police officer. It is the personal information of the appellant, because it is about him. It is not the personal information of the police officer, because, as the police's representations acknowledge, the statement was made in the course of his investigation, and therefore is made in a professional rather than a personal capacity. In light of the requirements of section 8(1)(c) outlined above, I do not consider the officer's statement about the appellant, satisfies section 8(1)(c) or indeed contains an investigative technique or procedure at all. Rather the sentence reveals the officer's judgment based on his experience and skill. Given the information is personal information of the appellant, and that the police have not established that section 8(1)(c) applies to it, the statement must be disclosed to the appellant.

[56] The second sentence withheld under section 8(1)(c) in Record 2[23] is an opinion about the appellant and is therefore the personal information of the appellant alone. As with the first withheld sentence, it does not reveal an investigative technique or procedure at all, so I find the statement must be disclosed to the appelant.

[57] The third sentence withheld under section 8(1)(c) in Record 2[24] is also solely the personal information of the appellant and records an intended action by a police officer. Even if I accept that the sentence reveals a technique or procedure, there is no evidence that disclosure of its use could reasonably be expected to hinder or compromise its effective utilization. The police have not established that section 8(1)(c) applies to it, so this statement must be disclosed to the appellant.

[58] In summary, I find that section 8(1)(c) does not apply in this appeal. As a result, I further find that the information withheld under section 38(a) is not exempt from disclosure.[25]

E. Did the police properly exercise its discretion?

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

[60] In addition, the Commissioner may find that the institution erred in exercising its discretion where, for example, it does so in bad faith or for an improper purpose; it takes into account irrelevant considerations; or it fails to take into account relevant

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[22] The first withheld sentence in record 2, which appears in the second full paragraph of the record.
[23] The last sentence in the second to last paragraph of Record 2. The other withheld information in this paragraph contains personal information of an affected party and I found could be withheld under section 38(b).
[24] The last sentence in Record 2.
[25] I note that this finding regarding coding information is consistent with the finding regarding the same type of information in Order MO-3371.

considerations.

[61] In either case this office may send the matter back to the institution for an exercise of discretion based on proper considerations.[26] I may not, however, substitute my own discretion for that of the institution.[27]

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

[63] The police's representations state that they granted the appellant access to his own personal information. They add that they balanced the appellant's right to access his personal information against their obligation to protect the privacy of the affected parties and explain that they considered the nature of the relationship between the appellant and the affected parties.

[64] The police state that they made minor redactions and that each exemption was explained in detail in the index of records they supplied to the appellant. I agree that the police's index of records did explain to the appellant the nature of the withheld information and the exemptions they were claiming to withhold it.

[65] I am satisfied that the police exercised their discretion in good faith when they relied on section 38(b) to withhold the affected parties' personal information. The police's representations demonstrate that they took relevant factors into account when exercising their discretion and did not consider irrelevant factors. There is no evidence that the police acted in bad faith.

[66] The police's exercise of discretion in relation to the information withheld under section 38(b) is upheld.

F. Did the police conduct a reasonable search for records?

[67] Where a requester claims that additional records exist beyond those identified by the institution, the issue to be decided is whether the institution has conducted a reasonable search for records as required by section 17.[28] If I am satisfied that the search carried out was reasonable in the circumstances, I will uphold the institution's decision. If I am not satisfied, I may order further searches.

[68] The *Act* does not require the institution to prove with absolute certainty that further records do not exist. However, the institution must provide sufficient evidence to show that it has made a reasonable effort to identify and locate responsive records.[29]

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[26] Order MO-1573.
[27] Section 43(2).
[28] Orders P-85, P-221 and PO-1954-I.
[29] Orders P-624 and PO-2559.

To be responsive, a record must be "reasonably related" to the request.[30]

[69] A reasonable search is one in which an experienced employee knowledgeable in the subject matter of the request expends a reasonable effort to locate records which are reasonably related to the request.[31]

[70] A further search will be ordered if the institution does not provide sufficient evidence to demonstrate that it has made a reasonable effort to identify and locate all of the responsive records within its custody or control.[32]

[71] Although a requester will rarely be in a position to indicate precisely which records the institution has not identified, the requester still must provide a reasonable basis for concluding that such records exist.[33]

[72] The appellant's arguments for why the police's search was not reasonable are that the police did not search a company's database and also that its search did not locate any records related to:

1. a police check he claimed to have submitted. The appellant attached a copy of a fingerprint identification record to support his claim.

2. his claim that he drove for one year with an expired driver licence.

3. a family member, whose records he believes he has a right to see.

[73] The police provided affidavit evidence from its Information and Privacy Legal Assistant (legal assistant) about its search. The legal assistant states that she has been employed by the police for fourteen years and has responsibility for responding to requests for police information, including responding to the request that resulted in this appeal.

[74] The legal assistant states she met with the appellant at his request to assist him with completing his request for records. In addition to this assistance, the police took additional steps to try and locate records the appellant believed existed. In particular, after locating some records in its own records management system, but failing to find any record relating to a particular incident described by the appellant at his meeting with the legal assistant, the police searched the Canadian Police Information Centre (CPIC) database for additional records about the appellant, locating none.

[75] The police's evidence is that after completing their search they again met with the appellant to provide him with the information they were disclosing and to explain

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[30] Order PO-2554.
[31] Orders M-909, PO-2469 and PO-2592.
[32] Order MO-2185.
[33] Order MO-2246.

the nature of the information they withheld in the responsive records.

[76] I will now consider the points raised in the appellant's representations.

[77] It is not clear from the appellant's representations why he believes the police should have searched a private company's database. Such a search is outside of the scope of the appellant's request to the police for its records about him and indeed of any request for records under the *Act*, unless the records were also in the custody or under the control of the institution. There is no suggestion that the private company's records are within the custody or control of the police, so I will not consider this issue further.

[78] The fingerprint identification record the appellant attached to his representations is from the RCMP, not from the (Guelph) police, so I take from the record that the appellant is mistaken in his belief that he made a request to the police, and instead made his request to the RCMP. This would explain why the police's search did not locate the fingerprint identification record, or any other records related to a police check.

[79] The appellant does not explain further why driving for a period of time with an expired licence would in itself have resulted in the police generating records about him. I am satisfied that the police's search would have located records related to this circumstance if any existed.

[80] Regarding the family member, in his request the appellant clearly asked only for records about him, namely "personal records-all the records under my name" not his family member, and it was reasonable for the police not to assume that he wanted records of family members, even if he might have had a right to access them. I note also that the appellant's family member is now an adult.

[81] Based on the evidence before me, I am satisfied that an experienced employee knowledgeable in the subject matter of the request expended a reasonable effort to locate records that were reasonably related to the request. I find that the police conducted a reasonable search for records.

ORDER:

1. I uphold the police's decision to withhold information in the records under section 38(b), except for the information that duplicates information in the records already disclosed to the appellant, and the withheld portion of the appellant's telephone number.

2. I am satisfied that the police conducted a reasonable search for records responsive to the appellant's request. I uphold the police's search for responsive records.

3. I order the police to disclose the information withheld under section 38(a) in conjunction with section 8(1)(c).

4. I have highlighted the withheld information that must be disclosed to the appellant in a copy of the records accompanying the police's copy of this order. I order the police to disclose the highlighted information to the appellant by **July 5, 2017** but not before **June 28, 2017,** and to copy me on its cover letter to the appellant, together with a copy of the records.

Original Signed by: May 30, 2017

Hamish Flanagan
Adjudicator