

Information and Privacy Commissioner,  
Ontario, Canada



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

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## ORDER PO-4078

Appeals PA18-89 and PA18-225

Ministry of the Solicitor General

October 29, 2020

**Summary:** The Ministry of the Solicitor General (the ministry) received a request under the *Freedom of Information and Protection of Privacy Act* (the *Act*) for license applications made to the Chief Firearms Officer (CFO) and all inspection reports relating to a shooting range operating on private property. The ministry issued a decision granting partial access to the records. An affected party opposed disclosure of any information relating to the shooting range and appealed the ministry's decision. The original requester also appealed the ministry's decision to grant only partial access to the responsive records. In this order, the adjudicator finds that the records contain personal information that is exempt under the mandatory personal privacy exemption in section 21 of the *Act* and the discretionary personal privacy exemption in section 49(b) of the *Act* and upholds the ministry's decision.

**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"), 21, 21(2)(f), and 49(b).

**Orders Considered:** PO-3560-I and PO-3605-F.

### OVERVIEW:

[1] This order addresses the issues raised by an individual's request to the Ministry of the Solicitor General (the ministry) under the *Freedom of Information and Protection of Privacy Act* (the *Act*) for access to licensing and inspection reports relating to a shooting range on property owned by another individual. The request was for:

All information on the [named shooting club] and any previously existing clubs located on [name of road] in [location], Ontario on land owned by [specified individual].

[2] The ministry conducted a search for responsive records. After notifying the individual named in the request as a party whose interests might be affected by disclosure of the records (the affected party), the ministry issued a decision stating that it intended to grant partial access to the records. In its decision, the ministry denied access to certain records and portions of records. The ministry claimed the application of the mandatory personal privacy exemption in section 21 of the *Act* and the discretionary personal privacy exemption in 49(b) of the *Act*. The ministry also claimed the application of the discretionary exemption in section 49(a) (discretion to refuse requester's own information), read in conjunction with section 14(1)(l) (facilitate commission of an unlawful act), as well as section 17(1) (third party information). Finally, the ministry withheld some information on the basis that it is non-responsive to the request.

[3] The affected party whom the ministry had notified appealed the ministry's decision to grant partial access, claiming that no records should be disclosed. Appeal PA18-89 was opened.

[4] The requester also appealed the ministry's decision, claiming that all records should be disclosed. Appeal PA18-225 was opened.

[5] The parties participated in mediation to explore the possibility of resolution. During mediation, the ministry issued a revised decision in which it wrote that it was no longer relying on the third party exemption in section 17(1) of the *Act* to withhold any records. As a result, the application of this exemption is not at issue in these appeals.

[6] Also during mediation, the original requester narrowed the scope of his request to access to "all license applications made to the chief firearms officer and all inspection reports relating to the shooting range." As a result of this narrowing, the information that the ministry withheld as non-responsive to the request is also no longer at issue in these appeals.

[7] In response to the narrowed request, the ministry located additional responsive records and issued a supplementary decision stating that it would grant partial access to these additional records. The ministry denied access to some of the information in the additional records on the basis of the discretionary personal privacy exemption in section 49(b) of the *Act*. The affected party appellant opposed disclosure of the additional records as well, claiming that disclosure would constitute an unjustified invasion of his personal privacy. The original requester appellant continues to seek access to all responsive records.

[8] As no further mediation was possible, the appeals proceeded to the adjudication stage of the appeal process for an inquiry. Because the appeals involve access to the same records, with one appellant opposing any disclosure and the other seeking access

to the responsive records in their entirety, I decided to conduct one inquiry for both appeals. As part of my inquiry, I sought representations from three additional individuals whose interests might be affected by disclosure of the records, in addition to the affected party appellant. Of those three additional affected parties, only one submitted representations (the second affected party). I also sought and received representations from the affected party, the ministry and the requester. Non-confidential portions of the representations were shared among the parties in accordance with IPC *Practice Direction 7*.

[9] In its representations, the ministry wrote that it no longer relies on section 49(a) of the *Act*, read in conjunction with the law enforcement exemption in section 14(1)(l) to withhold information from the responsive records. As a result, the only issues in these appeals are whether the records contain personal information, whether that personal information is exempt under the mandatory personal privacy exemption in section 21 of the *Act* or the discretionary personal privacy exemption in section 49(b), and whether the ministry properly exercised its discretion in applying section 49(b).

[10] For the reasons that follow, I find that the records contain the personal information of identifiable individuals other than the requester that is exempt under section 21 of the *Act*. I also find that one record in the series of records at issue contains personal information of both the requester and the affected party. I find that the personal information of the affected party is exempt under section 49(b) of the *Act* and that the ministry properly exercised its discretion to withhold it. I therefore uphold the ministry's decision to grant partial access to the responsive records and dismiss these appeals.

## **RECORDS:**

The records consist of license applications made to the chief firearms officer (CFO), inspection reports, certificates and correspondence. The information at issue has been withheld from the license applications, reports, certificate and correspondence numbered by the ministry as 000005-000009; 000020-000034; 000065-000077; 000080-000081; 000083-000128; 000131-000133; 000135-000157; 000162-000173; 000176-000183; 000186-000212; 000215-000222; 000224-000235; 000240-000251; 000254-000266; 000268-000288; and 000290-000300.

## **ISSUES:**

- A. Do the records contain "personal information" as defined in section 2(1), and, if so, to whom does it relate?
- B. Does the mandatory exemption at section 21(1) or the discretionary exemption at section 49(b) apply to the information at issue?

- C. Did the ministry exercise its discretion under section 49(b)? If so, should this office uphold the exercise of discretion?

## **DISCUSSION:**

### **Issue A: Do the records contain "personal information" as defined in section 2(1), and, if so, to whom does it relate?**

[11] In order to determine which sections of the *Act* may apply, I must first decide whether the records contain "personal information" and, if so, whose. Section 2(1) defines "personal information" as follows:

"personal information" means recorded information about an identifiable individual, including,

(a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual,

(b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,

(c) any identifying number, symbol or other particular assigned to the individual,

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

(e) the personal opinions or views of the individual except if they relate to another individual,

(f) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence,

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

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

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

information.<sup>1</sup> To qualify as personal information the information must be about the individual in a personal capacity. It must also be reasonable to expect that an individual may be identified if the information is disclosed.<sup>2</sup>

### ***Representations***

[13] The ministry submits that the records contain significant amounts of personal information belonging to a number of affected third party individuals, with the majority of that personal information being that of the affected party appellant.

[14] The ministry submits that the personal information is contained in correspondence between the CFO and one or more of the affected parties who are affiliated with a private shooting range located on the affected party's property. The ministry says that this correspondence was private, created solely to ensure compliance with the *Firearms Act*, was never intended for public dissemination and is therefore those parties' personal information.

[15] The original requester appellant did not make any representations on whether the records contain personal information as defined in the *Act*.<sup>3</sup>

[16] The affected party and the second affected party (who did not appeal) oppose the disclosure of any of their personal information or information about their property. They submit that the records contain information that is highly sensitive and that its disclosure would expose them to a variety of risks.

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

[17] On review of the records, I find that they contain personal information of identifiable individuals, including personal information of the affected party appellant, the second affected party, and the original requester appellant.

[18] The records contain information about the affected party appellant and other identifiable individuals that includes their names, telephone numbers, addresses (including an email address), detailed maps of private property, communications exchanged with CFO inspectors, and an affected party's name where it appears with other personal information that, if disclosed, would reveal other personal information about that individual.

[19] The records also contain information relating to a complaint made by the

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<sup>1</sup> Order 11.

<sup>2</sup> Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, 2002 CanLII 30891 (ON CA), [2002] O.J. No. 4300 (C.A.).

<sup>3</sup> The original requester appellant submits only that he cannot comment on whether the records contain personal information because he does not have access to the records.

requester that, taken together with other information in the records, such as the description of the requester's property in relation to the shooting range, could reveal the requester's address and identity.

[20] As a result, I find that some of the information in the records at issue is the personal information of the requester. I also find that the records contain the personal information of the affected party appellant and other identifiable individuals that collectively qualifies as their personal information within the meaning of paragraphs (c), (d), (f), (g) and (h) of section 2(1).

**Issue B: Does the mandatory exemption at section 21(1) or the discretionary exemption at section 49(b) apply to the information at issue?**

[21] Section 47(1) of the *Act* gives individuals a general right of access to their own personal information held by an institution. Section 49 provides a number of exemptions from this right.

[22] Under section 49(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 49(b) exemption is discretionary, the institution may also decide to disclose the information to the requester.

[23] In contrast, under section 21(1), where a record contains personal information of another individual but *not* the requester, the institution is prohibited from disclosing that information unless one of the exceptions in paragraphs (a) to (e) applies, or unless the section 21(1)(f) exception applies. The section 21(1)(f) exception states that an institution *shall* refuse to disclose personal information to any person other than the individual to whom the information relates except if the disclosure does not constitute an unjustified invasion of personal privacy.

[24] In applying either the section 49(b) exemption or the section 21(1)(f) exception to the section 21(1) exemption, sections 21(2) and (3) help in determining whether disclosure would or would not be an unjustified invasion of personal privacy. Section 21(4) also lists situations in which disclosure of information would not constitute an unjustified invasion of personal privacy. Finally, if any of paragraphs (a) to (h) apply, disclosure of the information is presumed to be an unjustified invasion of personal privacy.

[25] For records claimed to be exempt under section 21(1), that is, records that do not contain the requester's personal information, a presumed unjustified invasion of personal privacy under section 21(3) can only be overcome if a section 21(4) exception, or the public interest override at section 16, applies.

[26] If no section 21(3) presumption applies and the exceptions in section 21(4) do not apply, the factors listed in section 21(2) may be relevant in determining whether

disclosure of personal information would constitute an unjustified invasion of personal privacy.<sup>4</sup> In order to find that disclosure does not constitute an unjustified invasion of personal privacy, one or more factors and/or circumstances favouring disclosure in section 21(2) must be present. In the absence of such a finding, the exception in section 21(1)(f) is not established and the mandatory section 21(1) exemption applies.<sup>5</sup>

[27] For records claimed to be exempt under section 49(b) – i.e. records that contain the requester’s personal information – this office will consider, and weigh, the factors and presumptions in sections 21(2) and (3) and balance the interests of the parties in determining whether disclosure of the personal information in the records would be an unjustified invasion of personal privacy.<sup>6</sup> The list of factors under section 21(2) is not exhaustive. The institution must also consider any circumstances that are relevant, even if they are not listed in section 21(2).<sup>7</sup>

[28] In these appeals, the ministry and the affected party appellant (as well as the second affected party) argue that the factor at section 21(2)(f) applies and weighs against disclosure, because they believe the records contain information that is highly sensitive.

### ***Representations***

#### *The ministry*

[29] The ministry submits that most of the personal information at issue is that of the affected party and does not relate to the requester.

[30] The ministry submits that disclosure of the withheld information would constitute an unjustified invasion of the affected parties’ personal privacy and that, because the information at issue is highly sensitive, the factor listed at section 21(2)(f) applies and weighs against disclosure. The ministry says that the records contain information that is highly sensitive, in part because it involves communication between the affected party appellant and the CFO, and was created by CFO inspectors who attended the affected party’s property over a number of years. The property includes a building identified as a house. The ministry argues that disclosure of this information could be used by third party individuals for nefarious purposes, given the activity for which the property is used and for which it is licensed. The ministry argues that disclosure of the withheld information would invite risks that would result in significant distress to the affected parties.

[31] The ministry also argues that the records at issue were never intended to be

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<sup>4</sup> Order P-239.

<sup>5</sup> Orders PO-2267 and PO-2733.

<sup>6</sup> Order MO-2954.

<sup>7</sup> Order P-99.

public records: they were issued by the CFO addressed only to the affected party appellant and none of the affected parties had any indication that records would be disclosed in the manner contemplated by the requester's appeal.

[32] Finally, the ministry submits that the affected parties have not consented to the disclosure of their personal information pursuant to section 21(1)(a) and notes that the affected party has gone so far as to bring his own appeal to oppose the ministry's decision to grant even partial access to the responsive records.

#### *The affected parties*

[33] The affected party appellant opposes the disclosure of any of the records and objects to the disclosure of any of his personal information. He submits that the requester seeks access to the records in order to find support for his complaints against the range, complaints he says the requester has made in an effort to shut it down since having purchased property adjacent to it.

[34] The second affected party (who did not appeal but who submitted representations) also opposes the disclosure of any personal information or any information at all about the range to the original requester appellant, claiming that to do so would create unnecessary safety risks for the property and its occupants.

#### *The requester*

[35] The requester argues that the factors in paragraphs (b) and (d) of section 21(2) favour disclosure of all of the information to him.

[36] He submits that section 21(2)(b) weighs in favour of disclosure. He says that information in the records affects his and his family's safety because shooting activities are carried out on the range in close proximity to his own property. He argues that this creates compelling circumstances that weigh in favour of disclosure and that disclosure would in turn, pursuant to section 21(2)(b), promote public health and safety.

[37] The requester argues that disclosure is also relevant to the determination of his rights as a property owner, so that the factor at section 21(2)(d) applies in favour of disclosure. Specifically, he says that if the records contain information about safety contraventions, he should be made aware of those since this would give rise to public health and safety concerns as well as affect his rights as a nearby property owner.

[38] The original requester disputes that the information in the records is highly sensitive. He says that there is no indication that releasing the records could reasonably be expected to cause any, much less any significant, distress to the affected parties.

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

[39] I have reviewed the records at issue and find that only the record numbered 000005-000009, which is an inspector's report following a complaint made about the range, contains the personal information of both the affected party and the requester.



Therefore, the relevant personal privacy exemption for this record is the discretionary one in section 49(b). I find that the remaining records, which make up the majority of the records at issue, do not contain personal information belonging to the requester. Therefore, the relevant personal privacy exemption for these records is the mandatory one in section 21(1).

[40] With respect to the records to which the mandatory exemption in section 21(1) of the *Act* may apply, the parties did not argue that any of the exceptions at sections (a) to (e) apply, and I find that none of them do. The parties also did not argue that any of the exceptions in section 21(4) apply, and I find that none of them do in the circumstances of these appeals. Finally, the parties did not argue that any of the presumptions in section 21(3) apply, and I also find that none apply in these appeals.

[41] Since I have found that no section 21(3) presumption applies and the exception in section 21(4) does not apply, I must consider if there are any section 21(2) factors that may weigh in favour of or against disclosure of the information at issue under sections 21(1) and 49(b).

#### *Section 21(1) records*

[42] The ministry and the affected party appellant argue that the information at issue is highly sensitive and that the factor in section 21(2)(f) weighs against disclosure.

[43] Section 21(2)(f) reads:

A head, in determining whether a disclosure of personal information constitutes an unjustified invasion of personal privacy, shall consider all the relevant circumstances, including whether,

...

(f) the personal information is highly sensitive.

[44] To be considered highly sensitive, there must be a reasonable expectation of significant personal distress if the information is disclosed.<sup>8</sup> In the circumstances of these appeals, and based on my review of the records, I agree with the ministry and the affected party appellant that disclosure of the withheld information could reasonably be expected to cause the affected party (and the second affected party) significant personal distress. Both the ministry and the affected party have described in detail why disclosure of information regarding their property could reasonably be expected to cause significant personal distress. Although I have considered those representations, I have not reproduced them in these reasons because I am satisfied that doing so would disclose information in the records.

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<sup>8</sup> Orders PO-2518, PO-2617, MO-2262 and MO-2344.

[45] I have considered, but do not accept, the requester's position that the factors in sections 21(2)(b) and (d) apply to weigh in favour of disclosure of the information at issue.

[46] With respect to the factor at section 21(2)(b), which requires the ministry to consider whether access to the personal information may promote public health and safety, the requester has given no evidence of any public safety violations relating to the property; rather, his concerns relate to the fact that the range operates in close proximity to property he purchased. According to the requester, if disclosed, the responsive records could assist him in determining whether safety violations exist because they would reveal any safety contraventions or non-compliance with the CFO that might affect his rights as a nearby property owner. In my view, the mere speculation that disclosure might reveal such issues provides an insufficient basis for me to conclude that disclosure of personal information in the records relating to the shooting range may promote public health and safety. I therefore find that the factor favouring disclosure in section 21(2)(b) does not apply.

[47] I am also not persuaded that the personal information in the records is relevant to a fair determination of the requester's rights. For the factor at section 21(2)(d) to apply, the requester must establish that the right in question is related to a proceeding which is existing or contemplated, that the personal information sought has some bearing on or is significant to the determination of the right in question, and that the information is required to prepare for the proceeding or to ensure an impartial hearing.<sup>9</sup>

[48] In submitting that the information "will be relevant to the determination of my rights" as a property owner, the requester does not identify what those rights are, and gives no evidence of any existing or contemplated legal proceeding in which those rights may need to be determined.

[49] I find that seeking access to the records to be able to determine whether there might be an issue that would affect his rights as a property owner, broadly speaking, is insufficient to meet the requirements of the factor in section 21(2)(d), particularly because there is no evidence before me of any contemplated or existing legal proceeding in which the requester's rights are to be determined. I therefore find that the factor in section 21(2)(d) does not apply to weigh in favour of disclosure of the personal information in the records.

[50] In the absence of sufficient evidence to establish them, I find that sections 21(2)(b) and (d) do not apply to weigh in favour of disclosure of the personal information at issue under section 21.

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<sup>9</sup> 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.).

[51] I therefore find that disclosure of the personal information that the ministry withheld would result in an unjustified invasion of the personal privacy of the individuals to whom it relates and that it is exempt from disclosure under section 21(1) of the *Act*.

*Record withheld under section 49(b)*

[52] I found above that the record numbered 000005-000009 contains both the personal information of the original requester and the affected party appellant. The ministry has withheld the affected party's personal information from this record, while the affected party argues that the entire record should be withheld and the requester argues that the entire record should be disclosed. For the following reasons, I find that the affected party's personal information is exempt pursuant to section 49(b), but that the rest of the record is not, which results in upholding the ministry's decision.

[53] Record 000005-000009 is a report of an inspection following a complaint made by the requester. Concerning the factors in section 21(2), as I outlined above, the ministry submits that the withheld personal information is highly sensitive and that its disclosure could reasonably be expected to cause the affected party significant distress. Meanwhile, the requester argues that, as with all the responsive records, the factors at sections 21(2)(b) and (d) apply to weigh in favour of disclosure.

[54] The information that the ministry has withheld from this record is contained in correspondence from the CFO about the licensed use of the affected party's property. Based on my review of this personal information, I am satisfied that it appears in a context that is highly sensitive. Disclosure of the affected party's personal information in this context could reasonably be expected to cause the affected party significant distress. I therefore find that the factor in section 21(2)(f) applies and weighs against its disclosure.

[55] For the same reasons set out above under my section 21(1) analysis, I find that the factor favouring disclosure in section 21(2)(d) does not apply. The requester has provided no evidence that he requires the withheld personal information for a fair determination of his rights, except to say that the records might include information that could itself lead him to determine that his rights may, in some yet unspecified way, be affected. This is not sufficient to establish the factor in section 21(2)(d). Similarly, and for the reasons given above, I find that the factor favouring disclosure in section 21(2)(b) does not apply.

[56] While I find that no factors apply to weigh in favour of disclosure of the affected party's personal information in the circumstances, I also find that no factors apply to weigh against disclosure of the remaining information contained in this record. The remaining information the ministry intended to disclose includes the requester's own personal information and information about his property, about his complaint, and, information that is otherwise visible to the requester on signs posted along the perimeter of the range and the range property lines. I find that disclosure of the requester's own personal information to him as well as the descriptive information in this record would not result in an unjustified invasion of personal privacy under section

49(b).

[57] After considering and weighing the factors in section 21(2), and balancing the interests of the parties, I find that disclosing the affected party's personal information would constitute an unjustified invasion of his personal privacy in the circumstance. I therefore find that the affected party's personal information contained in the report numbered pages 000005-000009 is exempt under section 49(b), but that the remaining information in this record is not.

[58] In sum, I find that the withheld personal information is exempt under the mandatory personal privacy exemption in sections 21(1) or the discretionary one in section 49(b).

**Issue C: Did the ministry exercise its discretion under section 49(b)? If so, should this office uphold the exercise of discretion?**

[59] As I have upheld the ministry's decision under section 49(b), I must review the ministry's exercise of discretion because the section 49(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 irrelevant considerations.

[61] While this office may send the matter back to the institution for an exercise of discretion based on proper considerations,<sup>10</sup> it may not, however, substitute its own discretion for that of the institution.<sup>11</sup>

***Relevant considerations***

[62] Relevant considerations may include those listed below. Not all those listed will necessarily be relevant, while additional, unlisted, considerations may be relevant:<sup>12</sup>

- the purposes of the *Act*, including that:
  - information should be available to the public
  - exemptions from the right of access should be limited and specified

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<sup>10</sup> Order MO-1573.

<sup>11</sup> Section 43(2) of the *Act*.

<sup>12</sup> Orders P-244 and MO-1573.

- the privacy of individuals should be protected
- the wording of the exemption and the interests it seeks to protect
- whether the requester has a sympathetic or compelling need to receive the information
- whether the requester is an individual or an organization
- whether disclosure will increase public confidence in the operation of the institution
- the nature of the information and the extent to which it is significant or sensitive to the institution, the requester or any affected person.

[63] In granting partial access to the record to which the exemption in section 49(b) applies, I find that the ministry properly exercised its discretion under section 49(b).

### ***Representations***

[64] The requester argues that the ministry, in exercising its discretion to grant only partial access to responsive records, failed to consider relevant factors that weigh in favour of disclosure. He says that the ministry failed to properly consider the significance of the records to him, and that disclosure would increase public confidence in the ministry's operations, namely in the CFO's authority to license and regulate shooting ranges.

[65] Finally, the requester argues that the ministry failed to consider that, as someone close to the shooting range, the requester has a sympathetic and compelling need to receive information contained in the records so that he could be assured that the range complies with all applicable regulations, inquiries, investigations or other involvement of the CFO. In this regard, he relies on Order PO-3560-I, in which the ministry was ordered to re-exercise its discretion in circumstances the requester says are similar to his appeal.

[66] The ministry submits that it took into account relevant considerations in deciding to grant partial access to the records, including:

- the strong policy interest in encouraging candid and open communications between CFO staff and the owners and members of shooting ranges and clubs;
- the public policy interest in safeguarding the privacy of affected third party individuals whose personal information was collected as part of, or created pursuant to, CFO activities and who have not consented to its release; and,
- the implied expectation of affected third parties that personal information they provide to the CFO would be kept confidential.

[67] Finally, the ministry submits that it acted in accordance with usual CFO practice in severing the personal information of affected third party individuals.

[68] Neither the affected party appellant nor any other affected party made representations regarding the ministry's exercise of discretion.

### ***Analysis and finding***

[69] After considering the representations of the ministry and the original requester appellant and the circumstances of these appeals, I find that the ministry did not err in its exercise of discretion in deciding to grant partial access to the records while withholding the affected parties' personal information pursuant to section 49(b).

[70] In its representations, the ministry referred to several factors that informed its decision to withhold the personal information of individuals other than the requester, and I find these factors relevant to upholding the exercise of its discretion.

[71] I find that the ministry considered the purposes of the *Act* in deciding to grant partial access to the record, including that exemptions from the right of access should be limited and specific. I find that the ministry considered the public policy interest in safeguarding the privacy of affected parties whose personal information is collected by the CFO acting as an agent of the ministry, and the expectation of affected parties that the personal information they provide to the CFO would be kept confidential given the sensitive nature of this information weighed against the risks of disclosure.

[72] Finally, I find that the circumstances in the requester's appeal are distinguishable from those in Order PO-3560-I. Order PO-3560-I involved a request for access to information about a police shooting range situated next to private property where spent bullets were found outside the range boundary. The ministry denied access to portions of three pages of records on the basis that they contained advice or recommendations and were therefore exempt under section 49(a) read in conjunction with section 13(1) (advice or recommendations). The adjudicator found that the ministry had taken into account improper considerations in exercising its discretion because it, among other things, had failed to take into account considerations relating to the free and frank flow of advice or recommendations within the ministry; and failed to consider the significance of the information to the appellant that arose from the discharge of stray bullets outside the police shooting range's boundary, or how disclosure might increase public confidence in the ministry.

[73] I find that the same considerations are not present in these appeals, apart from the factual similarity of private property located in close proximity to a shooting range. Order PO-3560-I is an interim order in which the ministry was ordered to re-exercise its discretion under section 49(a). The ministry's decision to withhold records was subsequently upheld in Order PO-3605-F; in other words, the records at issue were ultimately found to be exempt from disclosure. Unlike in Order PO-3560-I, in the circumstances of the appeals before me, I find that the ministry did take into account relevant considerations.

[74] As a result, for the reasons set out above, I am satisfied that the ministry appropriately exercised its discretion in withholding the personal information that I have found to be exempt from disclosure under section 49(b). There is no indication that the ministry considered improper factors, failed to take into account relevant factors, or exercised its discretion in bad faith. I find that the ministry balanced the needs of the requester against the concerns of the affected party.

[75] I therefore uphold the ministry's exercise of discretion under section 49(b) and dismiss these appeals.

**ORDER:**

1. I uphold the ministry's decision to grant partial access to the responsive records and dismiss Appeals PA18-89 and PA18-225.
2. I order the ministry to disclose the records to the requester in accordance with its access decision by **December 4, 2020** but not before **November 30, 2020**.
3. The timeline in order provision 2 may be extended if the ministry is unable to comply as a result of the current COVID-19 situation. I remain seized of the appeal to address any such requests.

Original signed by: \_\_\_\_\_  
Jessica Kowalski  
Adjudicator

\_\_\_\_\_ October 29, 2020