

Information and Privacy Commissioner,  
Ontario, Canada



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

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## ORDER MO-4467

Appeal MA20-00464

Toronto Police Services Board

November 30, 2023

**Summary:** The appellant sought access to records under the *Act* from the Toronto Police Services Board (the police) related to his murder conviction. The police denied access to the responsive police reports and witness interviews, relying on the discretionary personal privacy exemption in section 38(b).

In this order, the adjudicator orders disclosure of the interviews of the witnesses that were interviewed in their professional capacity and determines that the section 38(b) exemption applies to the remaining information at issue in the records.

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

### OVERVIEW:

[1] The appellant was convicted of a murder. He sought access to records of police reports and witness statements related to this conviction.

[2] The Toronto Police Services Board (the police) received the following request from the appellant under the *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA or the Act)*:

I am requesting the following records from R. v. [requester's last name], [specified number]:

1. Transcripts of the following unseen interviews police interviews with civilian witnesses including:
  - a. [named person] - Friend of the deceased,
  - b. [named person] - Step mother of the accused,
  - c. [named person] - Father of the accused,
  - d. [named person]? - Homeless man residing at [specified address] between Sept. and Oct. 2007,
  - e. [named person]? - Homeless woman residing at [specified address] between Sept. and Oct. 2007,
  - f. [named person] - Street Ministry,
  - g. [named person] - Street Ministry.
2. Date of arrest for alleged gun possession called in by the family of the deceased in 2007 (immediately released upon finding no gun)

The relevant time frame for the request is 2007.01.01 to 2020.01.11, the date of the request.

[3] The police issued an access decision granting partial access to the records. Access to the withheld information was denied based on the personal privacy exemptions in sections 14(1) and 38(b) of the *Act*. By letter to the appellant dated September 23, 2020, the police advised that:

...in order to release the personal information of third parties (original police statements, cellphone records, text messages etc.), we would require signed authorizations from the parties named in your request. A review of this present request noted an absence of any signed authorizations or complete information regarding the request for statements of the named individuals.

*The Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) defines personal information as recorded information about an identifiable individual. Access to such information is strictly controlled by section 14 of the *Act* and subject to specific exemptions. As such, the involvement of any individual(s) or statements they have made (other than yourself) cannot be corroborated without explicit written approval

from the involved individual(s). Accordingly, as no authorizations were provided, access to those records has been denied pursuant to section 14 of the *Act*.

The additional request for the date of the alleged gun possession incident was determined to be September 4, 2007. A copy of the police report has been included for your benefit. Partial access is granted to this record as held by this Police Service. Access is denied to certain information pursuant to subsections 14(1)(f), 14(3)(b) & 38(b) of the *Act*.

[4] The appellant appealed the police's decision to the Information and Privacy Commissioner (the IPC) and a mediator was assigned to attempt a resolution of this appeal.

[5] During mediation, the appellant requested that the mediator notify the affected persons and attempt to gain their consent to disclose the information in the records relating to them. The mediator was unable to obtain the consent of the affected persons she attempted to contact as their contact information was not valid.

[6] In his appeal submission and during mediation, the appellant contended that there is a compelling public interest in the disclosure of the records as described at section 16 of the *Act*. The appellant asked that section 16 be added to the issues on appeal.

[7] As well, during mediation, the appellant contended that the absurd result principle should apply to some of the information at issue in this appeal. The appellant asked that the absurd result principle be added to the issues on appeal.

[8] The parties were unable to resolve the issues under appeal through mediation and the file was referred to adjudication, where an adjudicator may conduct an inquiry. I decided to conduct an inquiry and I sought the representations of the police, initially. The police provided representations, which I shared with the appellant. The appellant provided representations in response.

[9] The appellant did not provide me with clear instructions that I could share the specific information in his representations with the police and refer to them in detail in this order, despite my request to him to do so. Instead, he provided me with the reasons why parts of his representations should be kept confidential.

[10] The appellant did not clearly identify what portions of his representations should be kept confidential. Given the appellant's circumstances, which I will not elaborate on in this order, I will only refer to limited general information from the appellant's representation in this order. To be clear, while I will not be setting out the specifics of the appellant's representations in this order, I have considered them for the purposes of rendering my decision.

[11] I also attempted to contact the affected persons whose contact information was in the records but was unable to as these parties' information, which is from 2007, is no longer valid.

[12] In this order, I partially uphold the police's decision under section 38(b).

## **RECORDS:**

[13] At issue are 12 pages of paper records and two videos from 2007, more particularly described in the following chart:

<b>Record #</b>	<b>Description of records</b>	<b>Number of pages</b>	<b>Withheld in part or in full?</b>
1	Appellant's Record of Arrest	1	part
2	Appellant's Supplementary Record of Arrest	2	part
3	Appellant's Supplementary Record of Arrest	1	part
4	Civilian Witness List	1	part
5	Witness Interview Summary (witness 1)	2	full
6	Witness Interview Summary (witness 2)	2	full
7	Witness Interview Summary (witness 3)	3	full
8	Video interview of a witness (witness 4)	n/a	full
9	Video interview of a witness (witness 5)	n/a	full

[14] All information at issue has been withheld by the police by reason of section 38(b), as containing the personal information of the appellant and other individuals.

## **ISSUES:**

- A. Do the records contain "personal information" as defined in section 2(1) and, if so, whose personal information is it?
- B. Does the discretionary personal privacy exemption at section 38(b) apply to the information at issue in records 1 to 4, 6, 8 and 9?
- C. Did the institution exercise its discretion under section 38(b)? If so, should the IPC uphold the exercise of discretion?
- D. Is there a compelling public interest in disclosure of the records that clearly outweighs the purpose of the section 14(1) exemption?

## **DISCUSSION:**

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

[15] In order to decide which sections of the *Act* may apply to a specific case, the IPC must first decide whether the record contains “personal information,” and if so, to whom the personal information relates.

[16] Section 2(1) of the *Act* defines “personal information” as “recorded information about an identifiable individual.” “Recorded information” is information recorded in any format, such as paper records, electronic records, digital photographs, videos, or maps.<sup>1</sup>

[17] 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.<sup>2</sup>

[18] In some situations, even if information relates to an individual in a professional, official, or business capacity, it may still be “personal information” if it reveals something of a personal nature about the individual.<sup>3</sup>

[19] Information is about an “identifiable individual” if it is reasonable to expect that an individual can be identified from the information either by itself or if combined with other information.<sup>4</sup>

[20] Section 2(1) of the *Act* gives a list of examples of personal information:

“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,

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<sup>1</sup> See the definition of “record” in section 2(1).

<sup>2</sup> Orders P-257, P-427, P-1412, P-1621, R-980015, MO-1550-F and PO-2225. See also sections 2(2.1) and 2(2), which state:

(2.1) Personal information does not include the name, title, contact information or designation of an individual that identifies the individual in a business, professional or official capacity.

(2.2) For greater certainty, subsection (2.1) applies even if an individual carries out business, professional or official responsibilities from their dwelling and the contact information for the individual relates to that dwelling.

<sup>3</sup> Orders P-1409, R-980015, PO-2225 and MO-2344.

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

(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.

[21] The list of examples of personal information under section 2(1) is not a complete list. This means that other kinds of information could also be "personal information."<sup>5</sup>

[22] It is important to know whose personal information is in the record. If the record contains the requester's own personal information, their access rights are greater than if it does not.<sup>6</sup> Also, if the record contains the personal information of other individuals, one of the personal privacy exemptions might apply.<sup>7</sup>

### ***Representations***

[23] The police state that the records were created in relation to a murder investigation and that during the course of this investigation involving the appellant, its officers spoke to and took information from numerous individuals (the affected persons). As such, they submit that the records contain the personal information of these individuals, such as their first and last name, date of birth, address, and

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<sup>5</sup> Order 11.

<sup>6</sup> Under sections 36(1) and 38 of the *Act*, a requester has a right of access to their own personal information, and any exemptions from that right are discretionary, meaning that the institution can still choose to disclose the information even if the exemption applies.

<sup>7</sup> See sections 14(1) and 38(b).

telephone number.

[24] The police state that through the mediation process, unsuccessful attempts were made to contact the affected persons at the last known contact information on file.

[25] The appellant agrees that the records contain both his personal information and that of other individuals.

### ***Findings***

[26] Based on my review of the records, I find that they all include information that qualifies as both the personal information of the appellant and the affected persons as that term is defined in section 2(1) of the *Act*. This information includes their names, which appear with other personal information about them, their addresses, phone numbers and dates of birth, as well as their views and opinions and other details of a personal nature about them.

[27] However, I find that the majority of the information in records 5 and 7, which relate to two of the affected persons, the street ministry officials, does not qualify as their personal information because it relates to them in their professional capacity. These two individuals were interviewed by the police because of their interaction with the appellant in their professional capacity. With the exception of these two individuals' dates of birth and two sentences about these individuals' personal situation (found at the second last sentence of record 5 and the last sentence of record 7), I find that the information in records 5 and 7 does not qualify as these affected persons' personal information and cannot be subject to exemption under section 38(b).

[28] From my review of the appellant's representations, it is clear that he is not seeking access to the dates of birth, or to the type of personal information found in the two sentences that I have identified above. As a result, it is not necessary for me to consider whether this information subject to section 38(b).

[29] I will order the police to disclose Records 5 and 7 with the street ministry officials' dates of birth and the two sentences that contain their personal information, severed.

[30] The information in the remaining records, records 1 to 4, 6, 8 and 9 contains both the personal information of the appellant and the affected persons. Therefore, I will consider the application of discretionary personal privacy exemption in section 38(b) of the *Act* to the personal information at issue in these records.

### **Issue B: Does the discretionary personal privacy exemption at section 38(b) apply to the information at issue in records 1 to 4, 6, 8 and 9?**

[31] 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 some exemptions from

this right.

[32] Under the section 38(b) exemption, if a record contains the personal information of both the requester and another individual, the institution may refuse to disclose the other individual's personal information to the requester if disclosing that information would be an "unjustified invasion" of the other individual's personal privacy.

[33] The section 38(b) exemption is discretionary. This means that the institution can decide to disclose another individual's personal information to a requester even if doing so would result in an unjustified invasion of the other individual's personal privacy.<sup>8</sup>

[34] If disclosing another individual's personal information would not be an unjustified invasion of personal privacy, then the information is not exempt under section 38(b).

[35] Sections 14(1) to (4) provide guidance in deciding whether disclosure would be an unjustified invasion of the other individual's personal privacy.

[36] If any of the exceptions in paragraphs (a) to (e) of section 14(1) or if any of the paragraphs in section 14(4)<sup>9</sup> of the *Act* apply, disclosure of personal information is not an unjustified invasion of personal privacy, and the information is not exempt from disclosure under section 38(b). These paragraphs do not apply in this appeal.

[37] Sections 14(2) and (3) also help in deciding whether disclosure would or would not be an unjustified invasion of personal privacy under section 38(b). Sections 14(3)(a) to (h) list several situations in which disclosing personal information is presumed to be an unjustified invasion of personal privacy under section 38(b). The factors in section 14(2) help in deciding if disclosure would be an unjustified invasion of personal privacy.

[38] In deciding whether the disclosure of the personal information in the records would be an unjustified invasion of personal privacy under section 38(b), the decision-maker<sup>10</sup> must consider and weigh the factors and presumptions in sections 14(2) and (3) and balance the interests of the parties.<sup>11</sup>

### ***Representations***

[39] The police rely on the presumption at section 14(3)(b), which reads:

A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy,

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<sup>8</sup> See below in the "Exercise of Discretion" section for a more detailed discussion of the institution's exercise of discretion under section 38(b).

<sup>9</sup> Section 14(4) lists situations where disclosure would not be an unjustified invasion of personal privacy, in which case it is not necessary to decide if any of the factors or presumptions in sections 14(2) or (3) apply.

<sup>10</sup> The institution or, on appeal, the IPC.

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



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.

[40] The police state that the information at issue was compiled and recorded by attending officers in the course of conducting investigations into a possible violation of law.

[41] The police submit that the personal information provided by any individual to any law enforcement agency implies that the information is being provided in confidence and that if such information were routinely disclosed, it could heavily impact the trust members of the public have in any police service.

[42] They further submit that this mistrust will deter the public from coming forward to provide information (i.e., essential facts such as complete details of an incident, or their full name and address) to police regarding any incident, hindering police investigations, thus preventing the police from properly exercising their mandate. They state:

Regardless, if the matter is criminal or non-criminal, whether you are the suspect, victim, witness, or representative of any of the aforementioned, whether it is a homicide or simple neighbour dispute, disclosure of personal information of one individual to another for their own purposes, could potentially turn access to information requests into routine disclosure, thus deeming the protection of one's privacy moot.

[43] The police also rely on the factor in section 14(2)(h), which reads:

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

the personal information has been supplied by the individual to whom the information relates in confidence.

[44] They submit that every time an individual gives their personal information to the police, there is an expectation that the information will be held in confidence. They state that the personal information collected from all individuals mentioned in the records was supplied to the investigating officers believing there to be a certain degree of confidentiality.

[45] The appellant does not dispute that the records are related to criminal investigations by the police and that section 14(3)(b) applies. However, in his representations, the appellant relies on the factor that favours disclosure in section 14(2)(d), which 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,

the personal information is relevant to a fair determination of rights affecting the person who made the request.

[46] The appellant submits that he needs access to the information at issue in the records for upcoming legal proceedings.

### ***Findings***

[47] The records at issue all date back to 2007. As stated above, the affected persons were not able to be contacted by the IPC as their contact information was no longer valid. Therefore, I was unable to obtain their representations as to disclosure of their personal information in the records.

[48] I agree with the police that the personal information at issue in the records, which are police reports and police interview records, are subject to the presumption at section 14(3)(b), as they all concern investigations into possible violations of law. This presumption requires only that there be an investigation into a possible violation of law.<sup>12</sup> So, even if criminal proceedings were never started against the individual, section 14(3)(b) may still apply.<sup>13</sup>

[49] The factors in section 14(2) also help in deciding if disclosure would be an unjustified invasion of personal privacy. This section lists several factors that may be relevant to determining whether disclosure of personal information would be an unjustified invasion of personal privacy.<sup>14</sup> Some of the factors weigh in favour of disclosure, while others weigh against disclosure.

[50] The list of factors under section 14(2) is not a complete list. The institution must also consider any other circumstances that are relevant, even if these circumstances are not listed under section 14(2).<sup>15</sup>

[51] Each of the first four factors, found in sections 14(2)(a) to (d), if established, would tend to support disclosure of the personal information in question, while the remaining five factors found in sections 14(2)(e) to (i), if established, would tend to support non-disclosure of that information.

[52] The appellant relies on the factor in section 14(2)(d), namely that disclosure of the personal information is relevant to the fair determination of his rights. This section

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<sup>12</sup> Orders P-242 and MO-2235.

<sup>13</sup> 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).

<sup>14</sup> Order P-239.

<sup>15</sup> Order P-99.

supports disclosure of someone else'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. For the factor to apply, all four parts of the test must be met:

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. Is the personal information 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?

[53] The appellant has raised the factor in section 14(2)(d); however, I find that although there may be legal proceedings as referred to in section 14(2)(d), the information at issue does not contain the information that the appellant is specifically believes is contained in the records that he is seeking related to his conviction for murder.

[54] Specifically, records 1 to 4 concern a potential pointing of a firearm charge. Record 6 is a summary of an interview of an individual. Records 8 and 9 are videos of interviews of two other individuals. Records 6, 8 and 9 are interviews of three individuals related to the murder investigation.

[55] Based on my review of these records, I find that none of them before me contain the information that the appellant believes they should contain as set out in pages 11 and 12 of his representations concerning his murder conviction.

[56] Therefore. I find that parts 3 and 4 of the test under section 14(2)(d) have not been met and this factor does not apply to weigh in favour of disclosure.

[57] The police raise the application of section 14(2)(h), namely that the personal information was supplied in confidence. This section weighs against disclosure if both the individual supplying the information and the recipient had an expectation that the information would be treated confidentially, and that expectation is reasonable in the circumstances. This requires an objective assessment of whether the expectation of confidentiality is "reasonable."<sup>16</sup>

[58] Based on my review of the records at issue, I find that the information in them was supplied in confidence by the individuals listed therein to the police. Therefore, I

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<sup>16</sup> Order PO-1670

find that section 14(2)(h) applies and weighs against disclosure of the information at issue.

[59] I have considered and weighed the applicable factor in section 14(2)(h) and the presumption in 14(3)(b), both of which weigh against disclosure of the other individuals' personal information at issue.

[60] After balancing the interests of the appellant in receiving access to his own personal information and the interests of the individuals whose personal information is in the records, I find that disclosure of these individuals' personal information in the records to the appellant would be an unjustified invasion of their personal privacy under section 38(b). Therefore, I find the withheld information in records 1 to 4, 6, 8 and 9 is exempt under section 38(b), subject to my review of the absurd results principle, the police's exercise of discretion, and the public interest override.

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

[61] The appellant claimed that the absurd result principle applies. He submits that the statements and information supplied to the police by the affected persons is clearly in the his knowledge as they were created in relation to a murder investigation involving himself.

[62] An institution might not be able to rely on the section 38(b) exemption in cases where the requester originally supplied the information in the record or is otherwise aware of the information contained in the record. In this situation, withholding the information might be absurd and inconsistent with the purpose of the exemption.<sup>17</sup>

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

- the requester sought access to their own witness statement,<sup>18</sup>
- the requester was present when the information was provided to the institution,<sup>19</sup> and
- the information was or is clearly within the requester's knowledge.<sup>20</sup>

[64] However, if disclosure is inconsistent with the purpose of the exemption, the absurd result principle may not apply.<sup>21</sup>

[65] The records at issue are witness statements of other individuals or police reports containing information about other individuals. Based on my review of the records at

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<sup>17</sup> Orders M-444 and MO-1323.

<sup>18</sup> Orders M-444 and M-451.

<sup>19</sup> Orders M-444 and P-1414.

<sup>20</sup> Orders MO-1196, PO-1679 and MO-1755.

<sup>21</sup> Orders M-757, MO-1323 and MO-1378.

issue and the appellant's representations, I find that the absurd result does not apply. The appellant did not supply the information at issue to the police, nor is this information clearly within his knowledge. Nor was he present when the information was provided to the police.

[66] Therefore, I find that it would not be absurd to withhold the information at issue in the circumstances and the absurd result principle does not apply to allow disclosure of the information I have found exempt by reason of section 38(b).

**Issue C: Did the institution exercise its discretion under section 38(b)? If so, should the IPC uphold the exercise of discretion?**

[67] The section 38(b) exemption is discretionary (the institution "may" refuse to disclose), meaning that the institution can decide to disclose information even if the information qualifies for exemption. An institution must exercise its discretion. On appeal, the IPC may determine whether the institution failed to do so.

[68] In addition, the IPC 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 considerations.

[69] In either case, the IPC may send the matter back to the institution for an exercise of discretion based on proper considerations.<sup>22</sup> The IPC cannot, however, substitute its own discretion for that of the institution.<sup>23</sup>

[70] Some examples of relevant considerations are listed below. However, not all of these will necessarily be relevant, and additional considerations may be relevant:<sup>24</sup>

- the purposes of the *Act*, including the principles that:
  - information should be available to the public,
  - individuals should have a right of access to their own personal information,
  - exemptions from the right of access should be limited and specific, and
  - the privacy of individuals should be protected,

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<sup>22</sup> Order MO-1573.

<sup>23</sup> Section 43(2).

<sup>24</sup> Orders P-344 and MO-1573.

- the wording of the exemption and the interests it seeks to protect,
- whether the requester is seeking their own personal information,
- whether the requester has a sympathetic or compelling need to receive the information,
- whether the requester is an individual or an organization,
- the relationship between the requester and any affected persons,
- 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 and/or sensitive to the institution, the requester, or any affected person,
- the age of the information, and
- the historic practice of the institution with respect to similar information.

### ***Representations***

[71] The police state that:

The mandate, and indeed, the spirit of the *Act* is the balance of privacy protection with the public's right to know. This institution scrupulously weighs these factors in each and every access to information request. As the majority of our records contain sensitive material, we must balance the access interests of the appellant with the privacy rights of the affected individuals.

[72] The appellant did not address police's exercise of discretion directly in his representations.

### ***Findings***

[73] Based on my review of the entirety of the police's representations and the personal information at issue in the records, I find that they exercised their discretion in a proper manner taking into account relevant considerations. Specifically, I find that the police took into account the purpose of the section 38(b) exemption and the privacy rights it seeks to protect in deciding to withhold access to the personal information at issue.

[74] I find that the police balanced the appellant's right to his own personal information against the purpose of the section 38(b) privacy rights and exercised their discretion as to whether to disclose the information at issue in the records.

[75] Therefore, I am upholding the police's exercise of discretion.

**Issue D: Is there a compelling public interest in disclosure of the records that clearly outweighs the purpose of the section 14(1) exemption?**

[76] Section 16 of the *Act*, the "public interest override," provides for the disclosure of records that would otherwise be exempt under another section of the *Act*. It states:

An exemption from disclosure of a record under sections 7, 9, 9.1, 10, 11, 13 and 14 does not apply if a compelling public interest in the disclosure of the record clearly outweighs the purpose of the exemption.

[77] For section 16 to apply, two requirements must be met:

- there must be a compelling public interest in disclosure of the records; and
- this interest must clearly outweigh the purpose of the exemption.

[78] The *Act* does not state who bears the onus to show that section 16 applies. The IPC will review the records with a view to determining whether there could be a compelling public interest in disclosure that clearly outweighs the purpose of the exemption.<sup>25</sup>

[79] In considering whether there is a "public interest" in disclosure of the record, the first question to ask is whether there is a relationship between the record and the *Act's* central purpose of shedding light on the operations of government.<sup>26</sup> In previous orders, the IPC has stated that in order to find a compelling public interest in disclosure, the information in the record must serve the purpose of informing or enlightening the citizenry about the activities of their government or its agencies, adding in some way to the information the public has to make effective use of the means of expressing public opinion or to make political choices.<sup>27</sup>

[80] A "public interest" does not exist where the interests being advanced are essentially private in nature.<sup>28</sup> However, if a private interest raises issues of more general application, the IPC may find that there is a public interest in disclosure.<sup>29</sup>

[81] The appellant submits that he requires the information for his own personal interests related to his conviction.

[82] Based on my review of the records and the parties' representations, I find that the appellant's interest in the records is private in nature and related to his own benefit.

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<sup>25</sup> Order P-244.

<sup>26</sup> Orders P-984 and PO-2607.

<sup>27</sup> Orders P-984 and PO-2556.

<sup>28</sup> Orders P-12, P-347 and P-1439.

<sup>29</sup> Order MO-1564.

I find there does not exist a public interest in disclosure of the information at issue, as the appellant's interests being advanced are essentially private in nature.

[83] As the appellant's private interest does not raise issues of more general application, I find as there is not a public interest in disclosure of the records. Section 16 does not apply to override the application of the section 38(b) exemption. The information at issue in records 1 to 4, 6, 8 and 9, is exempt under section 38(b).

**ORDER:**

1. I order the police to disclose to the appellant by **December 30, 2023**, records 5 and 7, less the dates of birth, the second last sentence of record 5 and the last sentence of record 7.
2. I uphold the police's decision to deny access to the remaining information at issue in the records.
3. In order to verify compliance with order provision 1, I reserve the right to require the police to provide me with a copy of the records disclosed to the appellant.

Original signed by: \_\_\_\_\_

Diane Smith  
Adjudicator

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November 30, 2023