

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-4601

Appeal MA22-00426

London Police Services Board

November 29, 2024

**Summary:** An individual made a request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) to the London Police Services Board (the police) for his deceased father's police record. The police denied access to the records based on the personal privacy exemption at 14(1). In this order, the adjudicator finds that the individual is not entitled to the same right of access to his father's personal information as his father would have had (section 54(a)). She finds that the titles of police force members that the appellant had specifically requested are not personal information and therefore not exempt from disclosure under the *Act's* mandatory personal privacy provisions. She also finds that disclosure of the remaining information in the records at issue would be an unjustified invasion of personal privacy of individuals other than the appellant (section 14(1)) and the public interest override at section 16 does not apply to permit its disclosure. The adjudicator partially upholds the police's decision and orders it to disclose the titles of police force members 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), 4(2), 14(1)(a), 14(1)(e), 14(1)(f), 14(3)(b), 14(4)(c), 16, and 54(a).

### OVERVIEW:

[1] The London Police Services Board (the police) received an access request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) from the son of a deceased man. The appellant sought access to his father's entire police record, stating that he was "interested in any provincial or London Police Services records that

mention his name, including cases in which he was a suspect or person of interest but not convicted of a crime.”

[2] In his request, the appellant stated that he was the executor of his father’s estate, offering to provide a copy of the will if needed. The appellant stated that he was requesting the same level of access to the police records as his father would have had, if he had made the request himself.

[3] The police issued a decision, denying access to any responsive records, citing section 54 of the *Act*. This section states that if an individual is deceased, any right or power conferred on that individual by the *Act* may be exercised by their personal representative, if the exercise of the right or power relates to the administration of the individual’s estate.

[4] The appellant appealed the police’s decision to the Information and Privacy Commissioner of Ontario (the IPC). During mediation of the appeal, the police conducted a search for responsive records, locating 34 pages relating to two separate incidents. The police denied access to these records pursuant to section 14(1) (personal privacy) of the *Act* and continued to rely on section 54. The appellant asserted that he should be provided access to the records both for compassionate reasons (section 14(4)(c)) and due to a compelling public interest in the disclosure of the records (section 16). The police rejected both of those arguments and maintained its decision to deny access to the records.

[5] As mediation did not resolve the appeal, it was moved to the adjudication stage of the appeal process in which an adjudicator may conduct an inquiry. The adjudicator sought and received representations from both parties.<sup>1</sup>

[6] The appeal was then transferred to me to complete the inquiry and issue an order. I reviewed the parties’ representations and determined I did not need to hear from them further before making a decision.

[7] In the discussion that follows, I partially uphold the police’s decision. I find that the titles of police force members specifically requested by the appellant are not personal information and I order the police to disclose them to the appellant. I also find that the remaining information in the records at issue is exempt under section 14(1) of the *Act*, and that the public interest override at section 16 does not apply to permit its disclosure.

## **RECORDS:**

[8] At issue are 34 pages of police records relating to two separate occurrences. They include occurrence reports, follow up reports, and associated forms.

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<sup>1</sup> These representations were shared with the parties in accordance with the IPC’s *Code of Procedure*.

## **ISSUES:**

- A. Can the appellant exercise the rights of his deceased father under section 54(a) of the *Act*?
- B. Do the police records contain "personal information" as defined in section 2(1) and, if so, whose personal information is it?
- C. Does the mandatory personal privacy exemption at section 14(1) apply to the information at issue?
- D. Is there a compelling public interest in disclosure of the withheld information that clearly outweighs the purpose of the section 14(1) exemption?

## **DISCUSSION:**

### **Issue A: Can the appellant exercise the rights of his deceased father under section 54(a) of the *Act*?**

[9] In the decision made in response to the appellant's request, the police denied access to the responsive records, citing section 54(a) of the *Act*. This subsection states:

Any right or power conferred on an individual by this Act may be exercised,  
if the individual is deceased, by the individual's personal representative  
if exercise of the right or power relates to the administration of the  
individual's estate;

[10] Under this section, a requester can exercise the deceased's right of access under the *Act* if they can demonstrate that:

- They are the personal representative of the deceased; and
- The right they wish to exercise relates to the administration of the deceased's estate.

[11] If the requester meets the requirements of this section, then they are entitled to have the same access to the personal information of the deceased as the deceased would have had. The request for access to the personal information of the deceased will be treated as though the request came from the deceased themselves.

[12] I note that section 54(a) is not an exemption under the *Act*; it does not on its own provide a basis under which an institution may refuse to grant access to a record. Rather, it allows for requesters to exercise additional rights or powers if certain conditions are met. In this case, the police's initial decision indicates that it is their position that the

requester cannot exercise his father's right of access under the *Act*. Only later did the police specify the sections under which they denied access to the records responsive to the appellant's request, made on his own behalf.

[13] The appellant submits that he is the executor of his father's estate and provided this office with a copy of his father's will with his representations to confirm this status. However, it was the police, and not the appellant, who initially raised the application of section 54 of the *Act*. From my review, it does not appear that the appellant is asserting any rights pursuant to this section. The appellant's representations detail his reasons for seeking access to his father's records. As will be addressed in more detail below, they involve a research project regarding his father's life and his family's history. The appellant states that he agrees with the police that disclosure of the records is not relevant to the administration of the estate, and that he is instead requesting disclosure for these other reasons.

[14] I agree with both the police and the appellant that the appellant's reasons for seeking access to these records do not relate to the administration of his father's estate. Based on this, I find that the appellant may not exercise the right of access of his deceased father pursuant to section 54(a). The right of access to responsive records discussed below in this order is the appellant's own right of access under the *Act*.

**Issue B: Do the police records contain "personal information" as defined in section 2(1) and, if so, whose personal information is it?**

[15] The records at issue consist of police occurrence reports, follow up reports, and associated forms. The police rely on the mandatory personal privacy exemption at 14(1) of the *Act* to withhold them. Before I consider whether this exemption applies, I must first determine whether the records at issue contain "personal information." If a record does, I must determine whether the personal information belongs to the appellant, to other identifiable individuals, or both.

[16] Information is "about" an individual when it refers to them in their personal capacity, revealing something of a personal nature about the individual. 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>2</sup> Section 2(1) of the *Act* gives a list of examples of personal information.

[17] Generally, information about an individual in their professional, official or business capacity is not considered to be "about" the individual.

[18] The police state that the records do not relate to the appellant and do not include any of the appellant's personal information. The police note that the request was for police records relating to a named individual, and that the records document police

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

interactions with that individual and other affected parties. The police state that the records include addresses, telephone numbers, dates of birth, gender, places of employment, and statements collected from affected parties. The police state that it is reasonable to expect that individuals may be identified from this information.

[19] The appellant did not address whether the records contain personal information. He did state that he is not seeking personal information of anyone other than his father, other than the titles of those in the police force responsible for preparing the records at issue.

[20] I have reviewed the records at issue and find that the records do not contain the appellant's personal information. All the records at issue contain the personal information of other individuals. For some records, but not all, this includes the appellant's father's personal information. The personal information<sup>3</sup> contained in the records includes individuals' names, contact information, and dates of birth, as well as statements regarding the two reported incidents, which is personal information within the meaning of paragraphs (a), (c), (d), (e), (g) and (h) of the definition of that term in section 2(1) of the *Act*.

[21] The titles of members of the police force responsible for preparing the records are found on pages 11, 12, 22, 23, and 34. My understanding of the appellant's request is that he is seeking only the titles, and not the names of those police force members. "Personal information", as set out in section 2(1) of the *Act*, means recorded information about an identifiable individual. It is not reasonable to expect that an individual could be identified by the titles themselves, absent accompanying information, such as their name. In addition, section 2(2.1) states that "[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." Even if the member of the police force was

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<sup>3</sup> The definition of "personal information" is found in s. 2(1) of the *Act*, and reads 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;

identifiable from their title, that title identifies that individual in their "business, professional or official capacity." As such, I find that the titles of members of the police force are not personal information as defined by section 2(1) of the *Act*.

[22] As the mandatory personal privacy exemption found at section 14(1) only applies to personal information and these titles are not personal information, they are not exempt from disclosure pursuant to this section. As no other exemption has been claimed for them, I will order the police to disclose the titles of police force members found at pages 11, 12, 22, 23, and 34 to the appellant.

[23] Having found that the records contain the personal information of identifiable individuals other than the appellant, I will review the application of the mandatory personal privacy exemption in section 14(1) to the records at issue.

**Issue C: Does the mandatory personal privacy exemption at section 14(1) apply to the information at issue?**

[24] The mandatory personal privacy exemption in section 14(1) creates a general rule prohibiting an institution from disclosing personal information about another individual to a requester. This general rule is subject to the exceptions in section 14(1)(a) to (f). If any of those exceptions exist, the institution is required to disclose the information.

[25] The police take the position that the mandatory personal privacy exemption applies to the entirety of the records, and that none of the exceptions in section 14(1)(a) through (f) apply. The appellant takes the position that sections 14(1)(a), (e), and (f) apply to the records at issue, and permit the police to disclose the personal information at issue. Those sections read as follows:

A head shall refuse to disclose personal information to any person other than the individual to whom the information relates except,

(a) upon the prior written request or consent of the individual, if the record is one to which the individual is entitled to have access;

[...]

(e) for a research purpose if,

(i) the disclosure is consistent with the conditions or reasonable expectations of disclosure under which the personal information was provided, collected or obtained,

(ii) the research purpose for which the disclosure is to be made cannot be reasonably accomplished unless the information is provided in individually identifiable form, and

(iii) the person who is to receive the record has agreed to comply with the conditions relating to security and confidentiality prescribed by the regulations; or

(f) if the disclosure does not constitute an unjustified invasion of personal privacy.

***Section 14(1)(a): Prior written consent of the individual***

[26] For this exception to apply, the individual whose personal information is contained in the record must have consented to the release of their personal information, and this consent must be in writing. The consent must also be given in the specific context of the access request, meaning that the consenting individual must know that their personal information will be disclosed in response to an access request under the *Act*.

[27] The appellant states that as his father is deceased, his written consent regarding disclosure of the specific records cannot be provided. However, the appellant notes that his father actively requested records for public disclosure until he was no longer physically able to do so and posits that his father would have made a request for these police records, had he lived longer.

[28] The police state that implied consent cannot be established from the circumstances of this case, noting the "inherently private nature of the records." The police also note that the fact of the deceased individual having made efforts to collect other institutional records, but not having done the same for the records at issue, may indicate a desire on the part of the deceased individual for the appellant not to have access to these records.

[29] I do not agree with the police that a failure by the deceased individual to request the specific records at issue here implies that he did not wish for the appellant to have these records. Equally, the stated pattern of behaviour of requesting records from public institutions does not equate to the consent required to fulfill this subsection. The statute clearly requires the written consent of the affected individual and both parties agree that this was not provided to the police. I find that the exception found at section 14(1)(a) does not apply.

***14(1)(e): Research purpose***

[30] The wording of section 14(1)(e) makes it clear that this exception only applies if the disclosure of personal information is for a research purpose. If that preliminary requirement is met, paragraphs (i), (ii) and (iii) must also be satisfied for the section 14(1)(e) exception to apply.

[31] The police allow that the appellant's stated reasons for seeking access to the records may be interpreted as a "research purpose." However, the police state that the requirement in paragraph (i) of section 14(1)(e) that the disclosure be "consistent with the conditions or reasonable expectations of disclosure under which the personal

information was provided, collected or obtained” has not been met.

[32] The police state that the information at issue was collected in the course of law enforcement investigations. Section 14(3)(b)<sup>4</sup> of the *Act* states that disclosure of personal information that “was compiled and is identifiable as part of an investigation into a possible violation of law” is a presumed unjustified invasion of personal privacy. Therefore, the police state that this presumption of an unjustified invasion of privacy demonstrates that the collection of personal information for a law enforcement purpose is inconsistent with disclosure for a research purpose.

[33] The appellant states that he plans to write a book considering the lived experiences of his family. One of the central themes of this book is his father’s wish (and corresponding actions) to learn more about his life, in order to share his own story and provide others with an opportunity to learn from it. The appellant, who is employed in a related academic field, notes that he has already compiled information from different institutions for this purpose. The appellant also disputes that the police, who are “without training in academic scholarship or a clear sense of historiography,” are able to appropriately judge what information is necessary from a research perspective.

[34] The appellant takes the position that section 14(1)(e) states that “records can be disclosed if ‘there [is] a ‘reasonable expectation’ that disclosure would be requested.” He states that the fact of his father making records requests under the *Act* actively until shortly before his death demonstrates such a reasonable expectation.

[35] The appellant interprets “reasonable expectation” as a reasonable expectation that his father may have requested these records in future, had he not died. However, subsection 14(1)(e)(i) is clear that the reasonable expectation relates to the expectation of disclosure “under which the personal information was provided, collected, or obtained.” The relevant time to look at for the expectation of disclosure is when the police obtained the personal information.

[36] The police obtained the personal information at issue during the course of two investigations. I do not believe that those interacting with police for the purposes of a police investigation would expect that their personal information would be later provided to another party for a research purpose. As such, disclosure of this information would not be consistent with the reasonable expectation of disclosure under which the personal information was provided, collected or obtained, and I find that the exception at s. 14(1)(e) of the *Act* does not apply.

***14(1)(f): Unjustified invasion of personal privacy***

[37] This exception to the section 14(1) exemption applies “if the disclosure does not constitute an unjustified invasion of personal privacy.” The factors and presumptions in

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<sup>4</sup> The application of this subsection is addressed in more detail below.



sections 14(2) and (3) help in making this determination.

[38] 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 14 and the information cannot be disclosed. Section 14(3) can only be overcome if section 14(4) or the "public interest override" at section 16 applies.

[39] The police take the position that disclosure would amount to a presumed unjustified invasion of personal privacy. They base this on the s. 14(3)(b) presumption, mentioned above, which states that "[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...". The police state that the responsive records are related to investigations into alleged violations of the law.

[40] The appellant states that whether disclosure is an unjustified invasion of personal privacy is a matter of subjective opinion regarding what is "unjustified." He states that his father was transparent about his life, including aspects of his life that may not be viewed positively. The appellant notes that his father spoke about his life in various academic settings and was actively involved in research for the purposes of writing a book that would be publicly accessible.

[41] I appreciate the appellant's position regarding his father's willingness to share aspects of his life. However, the test for "unjustified invasion of personal privacy" is not based on the expectation of the affected individual. Rather, section 14(3) states that an unjustified invasion of personal privacy is presumed to be the case if some certain conditions are met. One of those is if the personal information was compiled and is identifiable as a part of an investigation into a possible violation of law. I have reviewed the records at issue, and I agree with the police that the personal information contained in these records were compiled as part of law enforcement investigations.

[42] In situations where there is no presumption that a disclosure of personal information would be an unjustified invasion of personal privacy, the analysis then turns to the factors set out in section 14(2). However, as the presumption in section 14(3)(b) has been established in this case, it cannot be rebutted by consideration of those factors.

[43] As mentioned above, a presumption may be overcome if one of the circumstances in section 14(4) applies. Section 14(4)(c) allows for disclosure of an individual's personal information to a close relative for compassionate reasons, and the appellant has raised the application of this provision to the records in this case.

***Does the compassionate reasons exception at section 14(4)(c) apply?***

[44] Section 14(4)(c) states:

Despite subsection (3), a disclosure does not constitute an unjustified invasion of personal privacy if it ... discloses personal information about a deceased individual to the spouse or a close relative of the deceased individual, and the head is satisfied that, in the circumstances, the disclosure is desirable for compassionate reasons.

[45] For section 14(4)(c) to apply, the answer must be "yes" to all three of the following questions:

1. Do the records contain the personal information of a deceased individual?
2. Is the requester a spouse or close relative of the deceased individual?
3. Is the disclosure of the personal information desirable for compassionate reasons, in the circumstances of the request?

[46] Compassionate reasons have generally been found to exist where disclosing information could assist a close relative in understanding events leading up to or surrounding an individual's death.<sup>5</sup>

[47] Personal information about a deceased individual can include information that also qualifies as the personal information of another individual. Where this is the case, the "circumstances" to be considered under the third part of the test would include the fact that the personal information of the deceased is also the personal information of another individual or individuals. The factors and circumstances referred to in section 14(2) may provide assistance in this regard, but the overall circumstances must be considered and weighed in any application of section 14(4)(c).<sup>6</sup>

[48] The police acknowledge that the records contain the personal information of a deceased individual, and that the requester is a close relative of the deceased individual.

[49] The police state that "[the] circumstances of this request do not relate to a desire to find closure or more information about the death of a loved one, or to assist in grieving the loss of a loved one." The police note that the deceased's personal information also includes personal information belonging to other individuals, and that they made the determination not to disclose the personal information after considering not just the appellant's stated need for the information, but also the privacy interests of the deceased and other individuals. The police state that they considered the criteria found in section 14(2) of the *Act* in making this determination.

[50] The appellant disagrees with the police's assessment that the information is not necessary for the grieving process. He states that having access to the records is part of both the grieving and healing process, as it would be used to demonstrate his father's

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<sup>5</sup> See, for example, Orders MO-4184 and PO-3781.

<sup>6</sup> Order MO-2237.

ability to overcome obstacles and barriers.

[51] I agree with the appellant that he is in a better situation to judge what information he requires for the grieving process than the police are. Previous IPC decisions have held that close relatives of a deceased individual, and not the institution, are in the best position to determine what information they want to seek out to assist them in the grieving process.<sup>7</sup>

[52] However, this office has consistently interpreted section 14(4)(c) as relating to information surrounding a close relative's death. The records sought in this case do not include any information regarding the circumstances of the death of the appellant's father. All information in the records at issue dates from well before that time. Based on that criterion, the section 14(4)(c) exception does not apply to the records at issue.

[53] Even if I were to accept the appellant's contention that historical information would assist him in the grieving process, I must consider the circumstances of this appeal. While the records include the deceased's personal information, this information is inextricably interwoven with the personal information of other identifiable individuals. The factors at section 14(2)(f) and (h) weigh against the disclosure of this information, as the information is highly sensitive and was supplied in confidence to the police.

[54] Having regard to all the circumstances before me, including the content of the records, I find that the exception permitting the disclosure of personal information in compassionate circumstances at section 14(4)(c) does not apply to the information remaining at issue. The appellant has not claimed that any of the other paragraphs of section 14(4) apply to the records at issue, and none of these appear to apply in the circumstances at hand. Given my previous finding that the section 14(3)(b) presumption applies to the records at issue, I uphold the police decision that the records, with the previously-noted exception of the titles of police force members, are exempt under section 14(1).

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

[55] The appellant argues that the public interest override at section 16 of the *Act* applies to the records at issue. Section 16 states that an exemption from disclosure of a record under some identified sections, which include section 14, does not apply "if a compelling public interest of the disclosure of the record clearly outweighs the purpose of the exemption."

[56] For section 16 to apply, two requirements must be met. First, there must be a compelling public interest in disclosure of the records. Second, this interest must clearly

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<sup>7</sup> Order MO-2245.

outweigh the purpose of the exemption.

[57] The *Act* is silent on who bears the burden of proof in respect of section 16. This onus cannot be absolute in the case of an appellant who has not had the benefit of reviewing the requested records before making submission in support of their contention that section 16 applies. To find otherwise would be to impose an onus which could seldom, if ever, be met by an appellant. Accordingly, the IPC will review the records with a view to determining whether there could be a compelling public interest in disclosure which clearly outweighs the purpose of the exemption.<sup>8</sup>

[58] 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>9</sup> Previous orders have 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>10</sup>

[59] A public interest does not exist where the interests being advanced are essentially private in nature.<sup>11</sup> Where a private interest in disclosure raises issues of more general application, a public interest may be found to exist.<sup>12</sup> A public interest is not automatically established where the requester is a member of the media.<sup>13</sup>

[60] The word “compelling” has been defined in previous orders as “rousing strong interest or attention”.<sup>14</sup>

[61] The existence of a compelling public interest is not sufficient to trigger disclosure under section 16. This interest must also clearly outweigh the purpose of the established exemption claim in the specific circumstances.

[62] An important consideration in balancing a compelling public interest in disclosure against the purpose of the exemption is the extent to which denying access to the information is consistent with the purpose of the exemption.<sup>15</sup>

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<sup>8</sup> Order P-244.

<sup>9</sup> Orders P-984 and PO-2607.

<sup>10</sup> Orders P-984 and PO-2556.

<sup>11</sup> Orders P-12, P-347 and P-1439.

<sup>12</sup> Order MO-1564.

<sup>13</sup> Orders M-773 and M-1074.

<sup>14</sup> Order P-984.

<sup>15</sup> Order P-1398, upheld on judicial review in Ontario (*Ministry of Finance*) v. Ontario (Information and Privacy Commissioner), [1999] O.J. No. 488 (C.A.).

***Representations of the parties***

[63] The police's position is that section 16 of the *Act* does not apply to the records at issue. The police characterize the request and records as "essentially private in nature," stating as follows:

While the request and supporting information provided by the appellant frame the larger context of their endeavours as within the public realm, the records themselves relate to a specific individual and have limited or no causal link to broader public interest referenced.

[64] The police acknowledge the work of the appellant's father to share his story and learnings, and characterize these efforts as directed at the impact of the damages caused by the residential school system and the Sixties Scoop. The police state that the records at issue are not related to those experiences and note that the records date from two distinct interactions that the deceased had with the police decades later.

[65] The police submit that in determining whether a public interest in disclosure is compelling, the IPC must also consider any public interest in not disclosing the record. Such an interest in non-disclosure could bring the public interest in disclosure below the threshold of "compelling". The police state that "based on the contents of the records in issue and the purpose for which they were compiled (law enforcement), there is significant public interest in the non-disclosure of the records in issue." The police also state that the mandatory personal privacy exemption claimed in this case is a core purpose of the legislation, and that the potential harm that could result from disclosure of the information outweighs any public interest in its disclosure.

[66] The appellant states that the question of whether the disclosure of the records at issue would "[enlighten] the citizenry about the activities of their government or its agencies" must not be considered in isolation. The appellant states that the potential disclosure of the records, and the effects it may have, must be viewed in a wider, intersectional context.

[67] As an example, the appellant notes that a compelling public interest has previously been found when the integrity of the criminal justice system was in question. The appellant acknowledges that this consideration may not directly apply to the records in question, but states that "access to these records is part of a broader narrative which will demonstrate the intersections between Indigeneity and the state, including policing services." The appellant takes the position that this connection exists even if the records do not explicitly reference race.

[68] The appellant states that his father had been publicly disclosing his lived experiences for several years prior to his death, in order to provide a learning opportunity for others. He states that access to these records will be used to contextualize the story of his father's life and to present intersections between Indigenous peoples and the state.

The appellant states that his work will be transparent “in regards to addiction, alcoholism, violence, and other additional themes” and notes that his father recognized that “such disclosures were worthwhile if they could help others process their own lived experiences.”

[69] The appellant expands on his argument as follows:

The final point of inquiry relates to the disclosure of these records in the name of public interest. A threshold for determining this is the ability to “inform or enlighten the citizenry about the actions of the government or its agencies.” Again, it is vital to consider that these records will not be used in isolation. They are but one part of a story that considers the intersections between the life of [the appellant’s father] and London Police Services, the Children’s Aid Society, the Canadian Armed Forces, the Indian Residential School System, the Indian Act, the Liquor Control Board, the Province of Ontario, and the Government of Canada. This research will document the intersections between an Indigenous family and the state and focus on resiliency in the face of sustained pressures. It will challenge the notion that [the appellant’s father] was just an urban Indigenous man who suffered alcoholism, was impoverished, and had a record with local law enforcement. It will recognize that all of these statements are true, but that it is also relevant to consider broader societal factors, much in the way that a Gladue Report considers these themes prior to sentencing an Indigenous offender. That is, clearly, a matter of public interest.

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

[70] I have considered the parties’ representations and have reviewed the records with a view to determining whether there is a public interest in their disclosure that clearly outweighs the purpose of the personal privacy exemption in section 14(1). I find that a compelling public interest in the disclosure of the records at issue has not been established in this case. As a result, section 16 does not apply.

[71] The question one must start with is whether there is a relationship between the record and the *Act’s* central purpose of shedding light on the operation of government. The appellant states that the records in this case can contribute to a larger understanding of how the interactions between Indigenous individuals and government or quasi-government institutions can affect those individuals. The appellant is not arguing that the records shed light on the operations of the police in particular, but that in telling his father’s story more fully, the records would help tell a larger story about how such interactions have affected members of Indigenous communities.

[72] The appellant is an academic and a researcher and brings that knowledge into his arguments for disclosure of the records at issue. I do not dismiss his argument that there may be value to the larger public in obtaining more knowledge regarding his father’s life

and his interactions with government institutions. However, this does not rise to the level of a compelling public interest.

[73] The records contain the personal information of his father and other individuals. Some records contain more information relating to individuals other than the appellant's father and include highly sensitive information. Even if I were to accept that there was some public interest served in disclosing this information, the question of whether there is a compelling public interest must also take into account if there is any public interest in the non-disclosure of the records.<sup>16</sup>

[74] In this case, the police have argued that there is a public interest in the non-disclosure of these records, based on these having been compiled for the purposes of law enforcement. I agree with the police that there is a public interest in preserving the privacy of those who provide information to the police as part of law enforcement investigations. This competing public interest in not having the records disclosed means that any potential public interest in the disclosure of the records does not rise to the threshold of "compelling."

[75] Further, even if the appellant had established that a compelling public interest in the disclosure of these records exists, I do not accept that in this case any such interest would clearly outweigh the purposes of the mandatory personal privacy exemption in section 14(1). The records contain sensitive personal information, and, in my view, this is a case where the personal privacy of the individuals must be maintained. Having regard to both the records and the arguments of the parties, I am not persuaded that infringements on the privacy interests of these individuals are justified.

[76] I therefore find that section 16 does not apply to override the application of the section 14 exemption.

## **ORDER:**

1. I order the police to disclose the titles of police force members in the records to the appellant by **January 6, 2024**. For ease of reference, I have provided the police with a copy of pages 11, 12, 22, 23, and 34 highlighting the information that is to be disclosed to the appellant.
2. I uphold the police's decision to withhold the remaining information in the records.
3. In order to verify compliance with Order provision 1, I reserve the right to require the ministry to provide me with a copy of the records disclosed to the appellant.

Original Signed by: \_\_\_\_\_

Jennifer Olijnyk  
Adjudicator

November 29, 2024

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<sup>16</sup> *Ontario Hydro v. Mitchinson*, [1996] O.J. No. 4636 (Div. Ct.).

