Information and Privacy Commissioner,
Ontario, Canada

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

ORDER MO-4640

Appeal MA21-00548

Belleville Police Services Board

March 31, 2025

Summary: An individual made a request to the Belleville Police Services Board under the *Municipal Freedom of Information and Protection of Privacy Act* for access to records related to police training.

The police withheld some information in a specific police training procedure under the law enforcement exemption at section 8(1) of the *Act*. The police also claimed that the procedure is excluded from the *Act* under the exclusion for information related to employment or labour relations (section 52(3)3).

In this order, the adjudicator does not uphold the police's claim that the procedure is employment or labour relations information excluded under section 52(3)3. She upholds the police's decision to withhold some information in the procedure because its disclosure could reasonably be expected to endanger the life or physical safety of police officers or other persons (section 8(1)(e)). However, she finds disclosure of the remainder of the withheld information could not reasonably be expected to lead to that result, and she orders the police to disclose it to the individual.

Statutes Considered: *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, sections 8(1)(e), 8(1)(i), and 52(3)3.

Orders Considered: Orders MO-2263, PO-2913, and MO-2365.

OVERVIEW:

[1] The Belleville Police Services Board (the police) received a request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for the following:

1. All policies, procedures, standards, reporting requirements, models and guidelines of the Belleville Police Service pertaining to the use of force by its officers;

2. All materials and programs utilized by the Belleville Police Service to train its officers on the appropriate use of force and the frequency and duration of such training;

3. Any race-based statistics collected by the Belleville Police Service on the use of force by its officers;

4. All materials and programs employed by the Belleville Police Service to train its officers with respect to anti-racism or bias and prejudice and the frequency and duration of such training; and

5. All materials and programs used by the Belleville Police Service to train its officers on the history, culture, rights and socio-economic conditions of Indigenous Peoples - especially the Mohawks of the Bay of Quinte First Nation - and the frequency and duration of such training.

[2] The police issued a decision granting partial access, withholding information under the exemptions in section 8(1) (law enforcement) and section 9(1)(b) (relations with other governments). The police also claimed that some information is excluded from the scope of the *Act* under section 52(3)3 (employment or labour relations).

[3] The appellant appealed the police's decision to the Information and Privacy Commissioner of Ontario (IPC) and a mediator was appointed to explore resolution.

[4] During mediation, the police issued a revised decision and index, claiming the exemption in section 7(1) (advice or recommendations) for some information, and confirming that they continue to withhold information under the law enforcement exemptions at sections 8(1)(c) (reveal investigative techniques or procedures), 8(1)(e) (endanger life or safety), 8(1)(i) (security), and 8(2)(a) (law enforcement report). The police also confirmed that they continue to claim that the exclusion at section 52(3)3 applies to some information.

[5] As a mediated resolution was not reached, the appeal was transferred to the adjudication stage, where an adjudicator may conduct an inquiry under the *Act*. I commenced an inquiry by inviting representations from the police, initially.

[6] During adjudication, the police issued a revised decision disclosing the Use of Force

Syllabuses and the Perceived Suspect Race document to the appellant. As a result of this disclosure, only the law enforcement exemptions at sections 8(1)(e), 8(1)(i), and the exclusion at section 52(3)3 remain at issue in this appeal.

[7] I sought and received representations from both parties about the issues in this appeal.[1]

[8] In this order, I find that section 52(3)3 does not apply to exclude the record at issue from the scope of the *Act*. I partially uphold the police's section 8(1)(e) claim and order them to disclose additional information to the appellant.

RECORD:

[9] The record remaining at issue consists of the Belleville Police Use of Force Procedure (procedure), including Appendix B, totaling 47 pages, as described in the police's revised Index of Records.

ISSUES:

A. Does the section 52(3)3 exclusion for records relating to labour relations or employment matters apply to the procedure at issue?

B. Does the discretionary exemption at section 8(1) related to law enforcement activities apply to the procedure at issue?

DISCUSSION:

Issue A: Does the section 52(3)3 exclusion for records relating to labour relations or employment matters apply to the procedure at issue?

[10] Section 52(3) of the *Act* excludes certain records held by an institution that relate to labour relations or employment matters. If the exclusion applies, the record is not subject to the access scheme in the *Act*, although the institution may choose to disclose it outside of the *Act*'s access scheme.[2]

[11] The purpose of this exclusion is to protect some confidential aspects of labour relations and employment-related matters.[3]

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[1] Portions of the police's representations were withheld from the appellant in accordance with the confidentiality criteria in the IPC's *Code of Procedure*. I have reviewed all the representations of the parties, but I will only outline the relevant non-confidential portions below.
[2] Order PO-2639.
[3] *Ontario* (*Ministry of Community and Social Services*) *v. John Doe*, 2015 ONCA 107 (CanLII).

[12] The police claim that section 52(3)3 applies to the procedure at issue. Section 52(3)3 states:

> Subject to subsection (4), this Act does not apply to records collected, prepared, maintained or used by or on behalf of an institution in relation to any of the following:
>
> 3. Meetings, consultations, discussions or communications about labour relations or employment related matters in which the institution has an interest.

[13] If section 52(3) applies to the records, and none of the exceptions found in section 52(4) applies,[4] the records are excluded from the scope of the *Act*. If section 52(3) applied at the time the record was collected, prepared, maintained or used, it does not stop applying at a later date.[5]

[14] The type of records excluded from the *Act* by section 52(3) are those relating to matters in which the institution is acting as an employer, and terms and conditions of employment or human resources questions are at issue.[6]

Section 52(3)3: labour relations or employment-related matters in which the institution has an interest

[15] For section 52(3)3 to apply, the institution must establish that:

1. the records were collected, prepared, maintained or used by an institution or on its behalf;

2. this collection, preparation, maintenance or use was in relation to meetings, consultations, discussions or communications; and

3. these meetings, consultations, discussions or communications are about labour relations or employment-related matters in which the institution has an interest.

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[4] Section 52(4) states that the *Act* applies to the following records:
1. An agreement between an institution and a trade union.
2. An agreement between an institution and one or more employees which ends a proceeding before a court, tribunal or other entity relating to labour relations or to employment related matter.
3. An agreement between an institution and one or more employees resulting from negotiations about employment related matters between the institution and the employee or employees.
4. An expense account submitted by an employee of an institution to that institution for the purpose of seeking reimbursement for expenses incurred by the employee in his or her employment.

[5] *Ontario* (*Solicitor General*) *v. Ontario* (*Assistant Information and Privacy Commissioner*) (2001), 55 O.R. (3d) 355 (C.A.), leave to appeal refused [2001] S.C.C.A. No. 509.

[6] *Ontario* (*Ministry of Correctional Services*) *v. Goodis* (2008), 89 O.R. (3d) 457, [2008] O.J. No. 289 (Div. Ct.). The CanLII citation is "2008 CanLII 2603 (ON SCDC)."

Representations of the police

[16] The police submit that section 52(3)3 applies to the procedure at issue to exclude it from the scope of the *Act*. They submit that they prepared the procedure, and they maintain and update it regularly to ensure relevancy and accuracy within provincial standards, guidelines, and rules.

[17] The police submit that they create and maintain a meaningful mission statement that expresses to the public what it should expect from them, and from that mission statement, policies are developed by the police, as an employer, to outline their expectations of an employee. They further submit that procedures are created from the policies, and they communicate these procedures in a step-by-step manner for employees to implement. The police submit that the particular procedure at issue in this appeal is the "Use of Force" procedure.

[18] The police submit that a procedure is the basic first step of employee training and every one of their employees must read and be familiar with every procedure, and that all their uniformed officers are subject to this procedure. They submit that the procedure at issue relates to matters in which they are acting as an employer, and it is the terms and conditions of the employment of specifically identified individuals (all uniformed police officers). The police submit that Order PO-2913 supports this argument.[7]

[19] The police submit that they prepared and maintain the procedure at issue to communicate information to the Training Branch relating to all aspects of "Use of Force."

[20] The police submit that they developed the procedure at issue, and they maintain and update it to dictate the training and deportment of every single officer of the uniform branch. They submit that their interest is more than "mere curiosity or concern" and this procedure is not minor in the nature of the relationship between the police and their employees. They submit that it is the very basis of what they expect from their employees.

[21] The police submit that once "Use of Force" training is completed, the officers are then allowed to carry/use their use of force options. They submit that in their capacity as an employer, they must ensure that every uniformed officer, who are carrying/using use of force options, have the requisite qualifications.

[22] The police submit that, as in Order MO-2263, the police in this appeal have an interest that is far more than a mere curiosity or concern within the meaning of section 52(3)3. The police submit that I "must conclude" that they have an interest in the "employment-related matter" of the procedure at issue, which is to conduct training in the context of their employment relationship.

[23] The police submit that the procedure at issue does not fall within any of the

[7] This order will be discussed in my analysis below.

exceptions to the section 52(3) exclusion, listed in section 52(4).

Representations of the appellant

[24] The appellant made two preliminary remarks regarding constraints on his representations as an appellant in this appeal. I have reviewed these remarks. However, since they are not directly relevant to my determination of the issues in this appeal, I will not reiterate them.

[25] The appellant submits that the section 52(3)3 exclusion does not apply to the procedure at issue. He submits that in Orders MO-1729 and MO-1954, the IPC held that the use of force manuals, like the procedure at issue, are not excluded by section 52(3)3 of the *Act*.

[26] The appellant questions the police's assertion that the procedure at issue contains "the terms and conditions of the employment of specifically identified individuals." He submits that the procedure at issue is a generic policy and training record. He further submits that in a footnote supporting this "dubious" claim, the police refer to Order PO-2913, which states the opposite of what the police allege. The appellant points out that the adjudicator in Order PO-2913 held that generic training materials are not about "employment-related matters" within the context of the *Act*.

[27] The appellant submits that the police refer to Order MO-2263 to support their position, but he argues that it does not. He submits that the police seem to be equating some kind of "Use of Force Options Card," which their officers carry or use, with the multi-page document that is the procedure at issue. He further submits that there is no connection between a training certificate, which was found to be excluded by section 52(3)3 in Order MO-2263, and the procedure at issue, which was not found to be excluded by section 52(3)3 in Orders MO-1729 and MO-1954. He submits that the situation in Order MO-2263 is different than the situation in this appeal.

[28] The appellant notes that in Order PO-2913, the adjudicator also found that Order MO-2263 was not relevant to the issue of "use of force policies and training materials," because the record at issue in Order MO-2263 was a training certificate of a specified police officer.

[29] The appellant submits that if section 52(3)3 applies to exclude the procedure at issue from the *Act*, it would mean that the public has no access whatsoever to any rules, guidelines, policies, and training materials pertaining to the use of force by police officers. He further submits that this result would damage the public's right to know about the standards which the police officers must meet with respect to this important function, and police officers are one of the very few public officials who are permitted by law to use force in carrying out their lawful duties.

Analysis and findings

[30] The police disclosed portions of the procedure at issue to the appellant. However, the IPC uses a "whole record" approach in determining whether an exclusion applies. Therefore, I will determine whether the entire procedure at issue is excluded under section 52(3)3 of the *Act*, not just the portions withheld by the police. Despite claiming an exclusion, nothing precludes the police from disclosing the procedure outside of the *Act*.

[31] Based on my review of the procedure at issue and the parties' representations, I find that section 52(3)3 does not apply to exclude it from the scope of the *Act*. My reasons follow.

[32] For me to find that section 52(3)3 applies, I must be satisfied that:

1. the procedure was collected, prepared, maintained or used by the police or on their behalf;

2. this collection, preparation, maintenance or use was in relation to meetings, consultations, discussions or communications; and,

3. these meetings, consultations, discussions or communications were about labour relations or employment-related matters in which the police have an interest.

[33] For section 52(3)3 to apply, all three parts of the test set out above must be met. Since I find below that the police have not established the third part of the test, I do not need to consider parts one and two of the three-part test in section 52(3)3.

Part 3: labour relations or employment-related matters in which the police have an interest

[34] The term "labour relations" refers to the collective bargaining relationship between an institution and its employees, as governed by collective bargaining legislation, or to similar relationships. The meaning of "labour relations" is not restricted to employer-employee relationships.[8]

[35] The term "employment of a person" refers to the relationship between an employer and an employee. The term "employment-related matters" refers to human resources or staff relations issues arising from the relationship between an employer and employees that do not arise out of a collective bargaining relationship.[9]

[36] The records are excluded only if the meetings, consultations, discussions, or communications are about labour relations or employment-related matters in which the

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[8] *Ontario* (*Minister of Health and Long-Term Care*) *v. Ontario* (*Assistant Information and Privacy Commissioner*), [2003] O.J. No. 4123 (C.A.); see also Order PO-2157.
[9] Order PO-2157.

institution has an interest. The phrase "in which the institution has an interest" means more than a "mere curiosity or concern" and refers to matters involving the institution's own workforce.[10]

[37] Based on the representations of the parties and the nature of the record, I find that the procedure at issue is not about labour relations or employment related matters in which the police have an interest.

[38] The police cite two orders in support of their position, Orders MO-2263 and PO-2913. I am not persuaded that either order supports their position.

[39] In Order MO-2263, the record at issue was a training certificate of a specified police officer. The adjudicator found that this training certificate was excluded from the *Act* by section 52(3)3. As the appellant points out, the procedure at issue in this appeal is generic training material and does not contain certification of any individual police officers. Therefore, I am not persuaded that the record at issue in Order MO-2263 is analogous to the record before me.

[40] I am also not persuaded that Order PO-2913 supports the police's position. In fact, I find that it supports the opposite conclusion. In Order PO-2913, the records at issue were training materials relating to the safe use of firearms, tasers, and restraints. The adjudicator found that section 65(6)(3) of the *Freedom of Information and Protection of Privacy Act* (*FIPPA*)[11] did not apply to exclude these training materials from the *FIPPA*.

[41] In coming to that decision, the adjudicator in Order PO-2913, went through previous IPC orders dealing with situations in which the labour exclusion was claimed over training materials. She determined that whether the labour exclusion applies to a record depends on the circumstances in which the record is used.

[42] In particular, the adjudicator in Order PO-2913 found the records would be excluded under section 65(6)3 of the *FIPPA* (or section 52(3)3 of the *Act*) if they were prepared or used in relation to communications about the employment-related training or qualifications of a particular individual, because they would be records relating to matters in which the institutions are acting as employers and the terms and conditions of the employment of specifically identified individuals.

[43] For generic training materials that are similar to the procedure at issue in this appeal, the adjudicator in Order PO-2913 found that section 65(6)3 of the *Act* (or section 52(3)3 of the *Act*) does not apply because these records are communications about operational procedures to be followed by the institution's employees generally, and do not relate to specific employees. She states:

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[10] *Ontario* (*Solicitor General*) *v. Ontario* (*Assistant Information and Privacy Commissioner*), cited above.
[11] Section 65(6) of *FIPPA* is the provincial equivalent of the exclusion at section 52(3) of the *Act*.

> Previous orders have found that where records are prepared in the course of routine procedures, such as police officers' notes or occurrence reports, they would not typically fall under the exclusion in section 65(6). However, when allegations of misconduct are made, the records subsequently retrieved from the case file for the purposes of the investigation have been excluded from the *Act* [See, for example: Orders MO-2428 and PO-2628]. I accept that once a performance issue arises as a result of a particular police officer's actions, records that describe the training that the officer received may well engage the interests of the institution in its capacity as employer.
>
> However, I am not persuaded that the records at issue, which consist of generic training materials, relate to matters in which the Ministry is acting as an employer and the terms and conditions of the employment of specifically identified individuals are at issue. For this reason, the communications represented by the records are not "about" employment-related matters" within the meaning of section 65(6)3. Accordingly, I find that the records at issue do not meet the requirements of part 3 of section 65(6)3 and they are subject to the *Act*.

[44] I agree with the adjudicator's reasoning and analysis of the IPC's jurisprudence and adopt it in this appeal. Subsequent IPC orders have also followed this line of reasoning.[12]

[45] The procedure at issue is generic and part of basic training that every uniformed police officer is subjected to, and it is not about the training or qualifications of any specific police employee. Therefore, I am not satisfied in this case that the police have an interest in the communications in the procedure at issue as an employer, and I find that part 3 of the test under section 52(3)3 has not been met. Accordingly, I find that the procedure at issue is not excluded from the scope of the *Act*.

[46] Since I find section 52(3)3 does not apply to exclude the procedure at issue from the *Act*, I will now consider the police's claim that the law enforcement exemption at section 8(1) applies to some of the information in the procedure.

Issue B. Does the discretionary exemption at section 8(1) related to law enforcement activities apply to the procedure at issue?

[47] Section 8 contains several exemptions from a requester's right of access, mostly related to the context of law enforcement. The police submit that the exemptions at sections 8(1)(e) and 8(1)(i) apply to the procedure at issue, while the appellant submits that they do not.

[12] For example, Orders PO-2928 and MO-2660.

[48] Sections 8(1)(e) and (i) state:

> (1) A head may refuse to disclose a record if the disclosure could reasonably be expected to,
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> > (e) endanger the life or physical safety of a law enforcement officer or any other person;
> >
> > (i) endanger the security of a building or the security of a vehicle carrying items, or of a system or procedure established for the protection of items, for which protection is reasonably required;

[49] The term "law enforcement"[13] is defined in section 2(1):

> "law enforcement" means,
>
> > (a) policing,
> >
> > (b) investigations or inspections that lead or could lead to proceedings in a court or tribunal if a penalty or sanction could be imposed in those proceedings, or
> >
> > (c) the conduct of proceedings referred to in clause (b)

[50] Many of the exemptions listed in section 8, including sections 8(1)(e) and 8(1)(l), apply where a certain event or harm "could reasonably be expected to" result from disclosure of the record.

[51] The law enforcement exemption must be approached in a sensitive manner, because it is hard to predict future events in the law enforcement context, and so care must be taken not to harm ongoing law enforcement investigations.[14]

[52] However, the exemption does not apply just because a continuing law enforcement matter exists,[15] and parties resisting disclosure of a record cannot simply assert that the harms under section 8 are obvious based on the record. They must provide detailed evidence about the risk of harm if the record is disclosed. While harm can sometimes be inferred from the records themselves and/or the surrounding circumstances, parties should not assume that the harms under section 8 are self-evident and can be proven simply by repeating the description of harms in the *Act.*[16]

[53] Parties resisting disclosure must show that the risk of harm is real and not just a

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[13] The term "law enforcement" appears in many, but not all, parts of section 8.
[14] *Ontario* (*Attorney General*) *v. Fineberg* (1994), 19 O.R. (3d) 197 (Div. Ct.).
[15] Order PO-2040 and *Ontario (Attorney General) v. Fineberg*, cited above.
[16] Orders MO-2363 and PO-2435.

possibility.[17] However, they do not have to prove that disclosure will in fact result in harm. How much and what kind of evidence is needed to establish the harm depends on the context of the request and the seriousness of the consequences of disclosing the information.[18]

Representations, analysis and findings

[54] Based on my review of the procedure at issue and the parties' representations, I find that section 8(1)(e) applies to exempt some portions of the withheld information in the procedure. However, I find that section 8(1)(e) does not apply to some portions that the police have withheld, and I will order them to disclose those portions to the appellant. I also find that section 8(1)(i) does not apply to any of the withheld information in the procedure.

[55] The police argue that none of the withheld information in the procedure at issue should be disclosed because its disclosure could endanger the life or physical safety of a law enforcement officer or any other person; and endanger the security of a building and vehicle. The police submit that they have "concerns" about why the appellant would need to know about the police's use of force.

[56] The appellant submits that the sections 8(1)(e) and 8(1)(i) exemptions do not apply to the procedure at issue. He submits that the police must provide evidence to establish a reasonable basis for believing that endangerment will result from disclosure and the reasons for resisting disclosure are not frivolous or exaggerated. The appellant submits that the police have not provided detailed evidence about the risk of harm if the withheld information were disclosed.

Section 8(1)(i): security of a building, vehicle, system or procedure

[57] The police submit that section 8(1)(i) applies to the withheld information in the procedure and its disclosure could be reasonably expected to endanger the security of police stations and vehicles.

[58] The procedure at issue outlines what, when, and where the police officers wear/store their use of force options. The police argue that the disclosure of the withheld information in the procedure could allow individuals to educate themselves on how to overtake a police vehicle and when a police station may be most vulnerable, which would endanger the security of police stations and vehicles. They argue that disclosure of any of the withheld information could easily provide "unsavoury characters a treasure-trove of how-to information to overcome a [police station, vehicle, or officer], thereby making

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[17] *Merck Frosst Canada Ltd.* v. *Canada (Health)*, [2012] 1 S.C.R. 23.

[18] *Ontario* (*Community Safety and Correctional Services*) *v. Ontario* (*Information and Privacy Commissioner*), 2014 SCC 31 (CanLII) at paras. 52-4; *Accenture Inc.* v. *Ontario* (*Information and Privacy Commissioner*), 2016 ONSC 1616.

the policy itself redundant."

[59] Based on my review of the procedure at issue, I find that the police have not provided sufficient evidence to establish that disclosure of the withheld information in the procedure could reasonably be expected to endanger the security of a building or vehicle as contemplated by section 8(1)(i). The procedure does not contain specific information about identifiable buildings or vehicles, such as floor plans of police stations or specifications of police vehicles. The police's main argument is that the procedure at issue would reveal that police stations and vehicles contain use of force options. I am not persuaded by the police's argument, because it is logical that police stations and vehicles contain use of force options used by police officers while carrying out their duties. Even if this was not generally known to the public, which I believe it is, the police have not provided sufficient evidence to establish how knowing that police stations and vehicles contain use of force options would endanger them. Therefore, I find that section 8(1)(i) does not apply to the withheld information in the procedure at issue.

Section 8(1)(e): life or physical safety of a law enforcement officer or any other person

[60] The police submit that section 8(1)(e) applies to the withheld information in the use of force procedure. They argue that disclosure of the withheld information could reasonably be expected to endanger the life or physical safety of a law enforcement officer or any other person.

Information not specifically referred to

[61] The police argue generally that none of the withheld information in the procedure should be disclosed to the appellant. However, in their representations, the police refer to and emphasize specific portions[19] of the procedure as information that should not be disclosed because the section 8(1)(e) exemption applies to them.

[62] As noted above, parties resisting disclosure must show that the risk of harm is real and not just a possibility.[20] Since the police have only made a general argument about the entire procedure and they have not provided specific representations on the remaining portions of the procedure, I find that they have not provided sufficient evidence to establish that disclosure of the remaining portions of the procedure could reasonably be expected to result in the harms under section 8(1)(e). Therefore, I find that section 8(1)(e) does not apply to the portions of the procedure that the police did not specifically refer to in their representations.

Sections 12 and 13

[63] For sections 12 and 13 of the procedure, which are entitled "Use of Force Reporting" and "Accountability" respectively, despite having made specific

[19] Sections 5.2, 5.7, 5.8, 6.5, 6.6, 7-9, 11-13, Records of Review, and Appendix B.
[20] *Merck Frosst Canada Ltd.* v. *Canada* (*Health*), [2012] 1 S.C.R. 23.

representations on these portions, I also find that the police have not provided sufficient evidence to establish the harms under section 8(1)(e), if they were disclosed. The police concede that these sections are administrative in nature and Use of Force Reports are released in Annual Statistics and Accountability is general reporting of different facets of the qualifications of an employee, but they still argue that these sections should not be disclosed. However, the police have not explained how disclosure of these two sections would endanger the life or safety of a law enforcement officer or any other person. Therefore, I find that section 8(1)(e) does not apply to sections 12 and 13 of the procedure.

Information that is generic in nature or available in the public domain

[64] I will now deal with the other specific portions[21] of the procedure that the police refer to and emphasize in their representations. To reiterate, the procedure outlines what, when, and where the police officers wear/store their use of force options.

[65] The police concede that it's likely that members of the public are aware that police officers are trained and likely require annual training, but the police argue that it is unlikely that they are aware of what the training consists of. The police also concede that it is likely that members of the public are aware that police officers carry various weapons, but the police argue that it is unlikely that they are aware of the specific weapons and the training involved with them. The police argue that if the withheld information in the procedure were disclosed, it would allow "unscrupulous individuals" to use this information to take "counter measures" against police officers.

[66] The appellant argues that the police's position that the entire procedure at issue is exempt under section 8(1)(e) is "extreme" and it is highly unlikely that all the withheld information is exempt under section 8(1)(e). He argues that exemptions from the right of access under the *Act* should be limited and specific.

[67] The appellant submits that the police have not provided detailed evidence to establish a reasonable expectation of harm and evidence amounting to speculation of possible harm is not sufficient. The appellant argues that there is not a reasonable expectation of harm from the disclosure of the withheld information in the procedure because much of the withheld information is already publicly available. The appellant's representations reference and include parts from several publicly available documents[22] that contain the same information as some of the withheld information in the procedure.

[68] The police acknowledge there are IPC orders that disclose similar records and there is a lot of information already within the public domain. They further acknowledge that an argument could be made since some of the withheld information is already "out

[21] Sections 5.2, 5.7, 5.8, 6.5, 6.6, 7-9, 11, Records of Review, and Appendix B.
[22] For example, the Use of Force section from the Ontario Policing Standards Manual with a "Sample Board Policy" and the September 2020 addition to the Ontario Policing Standards Manual on Use of Force, Appendix B on "Training Standard for Conducted Energy Weapon Users."

there" that it should be disclosed. However, the police submit that the "landscape" during which those previous IPC orders were decided is different than the "current landscape in Ontario where an unprecedented number of uniformed officers have been murdered on the job in the last several months." The police argue that even though there may be orders suggesting certain records ought to be disclosed, the IPC should "rethink" these orders and "start protecting" records that outline the training of police officers, "training that keeps them safe and by virtue of that, keeps all people in Ontario safe."

[69] I have reviewed and compared the procedure at issue and the publicly available documents the appellant has provided.[23] Based on my review of the procedure and the parties' representations, I find that most of the withheld procedure at issue is either already in the public domain or generic in nature. For example, section 9.0 "Conducted Energy Weapons Training/Re-Qualification" of the procedure is the same as the "Training Standard for Conducted Energy Weapon Users" referenced by the appellant in his representations. In fact, I find that much of the procedure at issue is the same as the excerpts from the Ontario Policing Standards Manual that the appellant has provided. Previous IPC orders have found that the harms under section 8(1)(e) have not been established where the withheld information is either generic in nature or available in the public domain.[24] I agree with this approach and adopt it in this appeal.

[70] While I understand why the police argue that the IPC should "rethink" disclosure of this type of information based on the "current landscape," it is not sufficient evidence to establish that the disclosure of all the information that the police have withheld from the procedure could reasonably be expected to endanger the life or physical safety of police officers or other persons. Given that most of the withheld information is either already in the public domain or generic in nature, I find that the police have not established the harms in section 8(1)(e), and therefore, the exemption does not apply to those portions of the procedure at issue.

Information exempt under section 8(1)(e)

[71] Despite my findings above, I find that some portions[25] of the withheld information in the procedure contain specific police training and information that is not widely known to the public, and its disclosure could be reasonably be expected to endanger the life or physical safety of police officers or other persons. For example, section 8.0 of the procedure at issue contains use of force information specific to the City of Belleville police. Other portions of the procedure also contain specific and detailed training techniques and use of force descriptions. I accept the police's argument that "unscrupulous individuals" could use this information to take "counter measures" against police officers, and I find that this harm is not frivolous or exaggerated. This information is not widely known to the public and I am satisfied based on my review of the procedure and the police's

[23] Either in his representations or linked to in his representations.
[24] Orders MO-2365 and MO-2207.
[25] Sections 5.2.2, 5.7.1-5.7.5, 7.2.10, 7.2.11, 7.3.7, 7.3.18, 7.4.13, 7.4.15-7.4.19, all of section 8.0, 11.4, 11.9.1-11.9.13, and the highlighted portions of the Record of Review and Appendix B.

representations, including the confidential portions, that disclosure of these portions of the procedure could reasonably be expected to endanger the life or physical safety of police officers or other persons. Therefore, I find these portions of the procedure at issue are exempt under section 8(1)(e) of the *Act*.

Exercise of Discretion

[72] The section 8(1)(e) exemption is discretionary, meaning that the police can decide to disclose information even if the information qualifies for exemption. The police must exercise their discretion. On appeal, I may determine whether the police failed to do so.

[73] The police state that they properly exercised their discretion under section 8(1)(e) to withhold the information at issue from the appellant. The police state that they took into consideration the nature of the procedure at issue and balanced what they disclosed with the potential harm that the disclosure of the information could cause. The police further submit that they did not exercise their discretion in bad faith or for an improper purpose, nor did they take into account any irrelevant factors.

[74] The appellant argues that the police did not properly exercise their discretion under section 8(1)(e) of the *Act* and I should not uphold their exercise of discretion. He argues that the police have exercised their "resistance" rather than discretion in withholding the information in the procedure by claiming and dropping exemptions during the process and causing delay.

[75] After considering the parties' representations and the circumstances of this appeal, I find that the police did not err in their exercise of discretion in denying access to the withheld portions of the procedure that I found exempt under section 8(1)(e) of the *Act*. I am satisfied that the police considered relevant factors and did not consider irrelevant factors in their exercise of discretion. In particular, it is evident that the police considered whether the disclosure of the withheld information in the procedure would increase public confidence in the police's operation and weighed it against the importance of protecting police officers' safety.

[76] Accordingly, I find that the police exercised their discretion in an appropriate manner in this appeal, and I uphold it.

ORDER:

1. I do not uphold the police's decision that the exclusion at section 52(3)3 applies to the procedure.

2. I partially uphold the police's decision to withhold information in the procedure under section 8(1)(e) of the *Act*.

3. For the sake of clarity, with this order I have provided the police with a copy of the procedure which has been highlighted to identify the portions that should not be disclosed to the appellant.

4. I order the police to disclose the rest of the information, which is not highlighted, to the appellant by **May 2, 2025**.

5. To verify compliance with the order, I reserve the right to require the police to provide me with a copy of the record disclosed to the appellant.

Original Signed by: March 31, 2025

Anna Truong
Adjudicator