

Information and Privacy Commissioner,  
Ontario, Canada



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

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## ORDER PO-4634

Appeal PA23-00308

Ministry of the Solicitor General

April 1, 2025

**Summary:** The appellant, a member of the media, made a request under the *Freedom of Information and Protection of Privacy Act* for records relating to the Premier's security/protective detail that reveal the dates the Premier attended a specific restaurant.

The ministry denied the appellant access to the requested information, claiming it is exempt under the mandatory personal privacy exemption at section 21(1) of the *Act* because its disclosure would be an unjustified invasion of the Premier's personal privacy. The appellant appealed the ministry's decision and raised the possible application of the public interest override in section 23.

In this order, the adjudicator upholds the ministry's decision to deny access to the dates the Premier attended the restaurant because disclosure would be an unjustified invasion of his personal privacy. The adjudicator also finds the public interest override does not apply to the information at issue. She dismisses the appeal.

**Statutes Considered:** *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, sections 2(1) (definition of "personal information"), 21(1), 21(2)(f), and 23.

**Order Considered:** Order MO-2521.

**Case Considered:** *Dagg v. Canada (Minister of Finance)*, [1997] 2 SCR 403.

### OVERVIEW:

[1] The appellant, a member of the media, made a request under the *Freedom of*

*Information and Protection of Privacy Act* (the *Act*) to the Ministry of the Solicitor General (the ministry) for records relating to the Premier's Ontario Provincial Police (OPP) security/protective detail. The appellant specifically requested access to officers' notes, risk assessments, meeting preparations or summary plans prepared by OPP staff in relation to meetings held by the Premier at a specific restaurant. The appellant sought records created between February 1 to December 1, 2022.

[2] The ministry located responsive records, which are officers' notes, and denied the appellant access to them. The ministry withheld the information under the law enforcement exemption in section 14(1)<sup>1</sup> and the personal privacy exemption in section 21(1) of the *Act*.

[3] The appellant appealed the ministry's decision to the Information and Privacy Commissioner of Ontario (the IPC).

[4] During mediation, the appellant raised the possible application of section 23 of the *Act*, the public interest override, to the information withheld under the personal privacy exemption. The public interest override was added as an issue in the appeal.

[5] Mediation did not resolve the appeal, and it was transferred to the adjudication stage of the appeal process, where an adjudicator may conduct an inquiry. In my inquiry, I sought and received representations from the ministry and the appellant and shared their representations in accordance with the IPC's *Code of Procedure*. The appellant confirmed he only seeks access to the dates the Premier attended the restaurant. The ministry withdrew its law enforcement exemption claim but maintained its personal privacy exemption claim. The ministry also notified the Premier of the appellant's request; the Premier did not consent to the disclosure of any personal information relating to him.

[6] In this order, I uphold the ministry's decision and dismiss the appeal.

## **INFORMATION AT ISSUE:**

[7] The information at issue are the dates the Premier attended the restaurant between February 1 and December 1, 2022.

## **ISSUES:**

- A. Is the information at issue "personal information" as defined in section 2(1) of the *Act*?

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<sup>1</sup> Specifically, the ministry claimed sections 14(1)(c) (investigative techniques and procedures), (e) (endanger life or physical safety), (i) (endanger security of a building), and (l) facilitate commission of unlawful act or hamper the control of crime).

- B. Does the mandatory personal privacy exemption at section 21(1) apply to the information at issue?
- C. Is there a compelling public interest in disclosure of the records that clearly outweighs the purpose of the section 21(1) exemption?

## **DISCUSSION:**

### **Issue A: Is the information at issue “personal information” as defined in section 2(1) of the *Act*?**

[8] To determine whether the information at issue is exempt under the personal privacy exemption in section 21(1), I must first decide whether it is “personal information”. If the information contains the personal information of identifiable individuals who are not the requester, one of the personal privacy exemptions might apply.<sup>2</sup> The term *personal information* is defined in section 2(1) of the *Act* as “recorded information about an identifiable individual.”

[9] To qualify as personal information, it must be reasonable to expect an individual will be identified if the information is disclosed. Moreover, the information must be about the individual in a personal capacity. Generally, information associated with an individual in a professional, official or business capacity will not be considered to be *about* the individual.<sup>3</sup> Therefore, if the information at issue relates to the Premier in his professional capacity, it is not his personal information.

[10] However, even if information relates to an individual in a professional, official or business capacity, it may still qualify as personal information if the information reveals something of a personal nature about the individual.<sup>4</sup>

[11] The ministry submits the dates of the Premier’s visits to the restaurant relate to him in a personal capacity and are, therefore, his personal information. The ministry submits the Premier attended the restaurant on these dates as a private citizen and not in his official capacity. As such, the ministry submits the information at issue is not subject to section 2(3) which states that personal information does not include information that identifies an individual in a business, professional or official capacity.

[12] The appellant submits the ministry provided no evidence to support its claim that the Premier attended the restaurant as a private citizen. For example, the appellant asks whether the Premier was meeting a family member on one of the dates included in the

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<sup>2</sup> If the record contains personal information about the requester, their access rights are greater than if they do not. See sections 47(1) and 49 of the *Act*.

<sup>3</sup> See sections 2(3) and (4) of the *Act* and Orders P-257, P-427, P-1621, R-98005, MO-1550-F and PO-2225.

<sup>4</sup> Orders P-1409, R-980015, PO-2225 and MO-2344.

records.

[13] In addition, the appellant submits it is “a well-established fact that [the Premier] has conducted government-related meetings” at the restaurant. The appellant refers to three media articles in which the Premier was reported to have conducted government or business-related meetings at the restaurant.

[14] The appellant further submits the Premier is an elected official who has “blurred the lines between personal and private.” For example, the appellant submits the Premier has used his home to host government-related events<sup>5</sup> and once held an official press conference from his mother’s house.<sup>6</sup> The appellant further refers to Order PO-4577-F, in which the IPC found the Premier used his personal cell phone to conduct government-related business. Given these circumstances, the appellant claims it is not sufficient to “merely assert [the Premier] attended the restaurant in a personal capacity.” Instead, the appellant submits, if the ministry wishes to pursue its section 21(1) claim, it should be required to prove each visit was inherently personal in nature.

[15] The appellant argues that even if the Premier attended the restaurant as a private citizen, the disclosure of the dates he attended would not reveal anything of a personal nature about him. The appellant submits it is clear the Premier dines at the restaurant and the dates in question are in the past. Further, the appellant submits that while the Premier’s choice of restaurant may appear personal, that information has been published in “many media articles and a report by the Integrity Commissioner.”

[16] I do not agree with the appellant’s argument that the dates the Premier attended the restaurant are not his personal information. I do not dispute the Premier may have conducted government or business meetings at the restaurant, potentially on one or more of the dates at issue in this appeal. However, the IPC has found that information may still qualify as personal information if it would reveal something of a personal nature about the individual.<sup>7</sup>

[17] I find the dates the Premier attended at an identified restaurant would reveal something of personal nature about him. Specifically, these dates would reveal the frequency or regularity with which he attends the restaurant and could also reveal a pattern in his personal behaviour, choices, and habits. The Premier may well have conducted meetings or business at the identified restaurant on some of these dates. However, he may also have attended the restaurant for purposes that were not work-related. In any case, the Premier selected and dined at the restaurant, potentially with some pattern or regularity and therefore, I find that disclosing the dates would reveal

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<sup>5</sup> The appellant provides two social media posts and two instances in the Premier’s schedule where he conducted meetings with external stakeholders at his home.

<sup>6</sup> The appellant refers to this article: <https://www.tvo.org/article/doug-ford-is-pulling-a-vanishing-act-again>.

<sup>7</sup> Orders P-1409, R-980015, PO-2225 and MO-2344.

something of a personal nature about him.

[18] I find support for this conclusion in *Dagg v. Canada (Minister of Finance)*<sup>8</sup>, in which the Supreme Court of Canada considered the definition of “personal information” in the federal *Privacy Act* and whether the sign-in logs of government employees “relates to the position or functions of the individual.” In a dissenting decision that has since set the standard for defining personal information, Justice La Forest wrote,

The information requested in the present case is not information about the nature of a particular position. While it may give the [applicant] a rough, overall picture of weekend work patterns, it provides no specific, accurate information about any specific employee’s duties, functions or hours of work. Rather, it reveals information about the activities of a specific individual which may or may not be work-related.<sup>9</sup>

[19] Justice La Forest agreed with and endorsed the federal Information Commissioner’s finding in response to the applicant’s earlier complaint that

.... the information at issue here is not at all about the nature of the work of named public officials but only about their whereabouts at a specific time. There is simply no indication that Parliament intended this derogation to be interpreted in a way which would result in public officials being subjected to a form of physical surveillance through records disclosure.<sup>10</sup>

[20] I agree with and adopt these principles for the purposes of this analysis. The dates at issue do not provide specific or accurate information about the Premier’s duties or functions. The dates only reveal information about the Premier’s attendance at the restaurant, which may or may not be work-related. The dates alone, without any other context, do not offer any insight as to whether the Premier met with other people and if so, whether he met with them in a personal or professional capacity.

[21] To be clear, the Premier’s security detail accompanies him both in his personal and professional capacities. Accordingly, any notes about his visits to the restaurant could be about the Premier in either capacity.

[22] Further, I note the IPC has generally treated information that is not definitively personal or professional information on its face as personal. For example, in Order MO-2521, the IPC considered whether Highway 407 invoices relating to the use of a city vehicle by an identified employee for both personal and business trips contained personal information. The IPC determined it was not possible to distinguish the personal or business uses of the vehicle on the face of the records and treated all the invoices as

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<sup>8</sup> [1997] 2 SCR 403. (*Dagg*)

<sup>9</sup> *Ibid.*, para 95.

<sup>10</sup> Information Commissioner’s findings reproduced at *Dagg.*, para 96.

personal information.<sup>11</sup> I agree with this approach to information which, on the face of the record, may not be possible to determine whether it is related to an individual in their personal or professional capacity and will follow it.

[23] Accordingly, I find the dates the Premier attended the identified restaurant qualifies as his personal information within the meaning of section 2(1) of the *Act* because it is information that reveals something personal about an identifiable individual.

**Issue B: Does the mandatory personal privacy exemption at section 21(1) apply to the information at issue?**

[24] One of the purposes of the *Act* is to protect the privacy of individuals with respect to the personal information an institution holds about them. Section 21(1) of the *Act* creates a general rule that an institution cannot disclose personal information about another individual to a requester. This general rule is subject to a number of exceptions.

[25] The sections 21(1)(a) to (e) exceptions are relatively straightforward. If any of those five exceptions exist, the ministry must disclose the information. Neither party raised the application of any of the exceptions in section 21(1)(a) to (e) and I find none of them apply.

[26] Under section 21(1)(f), an institution can disclose another individual's personal information to a requester only if this would not be an "unjustified invasion of personal privacy." If disclosure of the personal information at issue would not be an unjustified invasion of personal privacy, the personal information is not exempt from disclosure.

[27] Sections 21(2), (3), and (4) help in deciding whether disclosure would or would not be an unjustified invasion of personal privacy. Section 21(3) should generally be considered first. Section 21(3) describes several situations in which disclosing personal information is presumed to be an unjustified invasion of personal privacy. The ministry does not claim the application of any of the presumptions in section 21(3) and I find none apply.

[28] Section 21(4) sets out certain types of information where disclosure is not an unjustified invasion of personal privacy. Neither the ministry nor the appellant claimed that these sections apply to this appeal, and I find that none of these exceptions or situations are applicable.

[29] Section 21(2) lists several factors that may be relevant to determining whether disclosure of personal information would be an unjustified invasion of personal privacy.<sup>12</sup> Some of the factors weigh in favour of disclosure, while others weigh against disclosure. If no factors favouring disclosure are present, the general rule that personal information

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<sup>11</sup> I note the Ontario Divisional Court accepted this characterization of the invoices on judicial review. See *Vaughan (City) v. Ontario (Information and Privacy Commissioner)*, 2011 ONSC 7082 (Div. Ct.)

<sup>12</sup> Order P-239.

should not be disclosed under section 21(1) applies because the exception in section 21(1)(f) has not been proven.<sup>13</sup>

[30] The ministry claims the application of section 21(2)(f) of the *Act* which is a factor weighing against disclosure. This section states,

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 highly sensitive.

[31] The ministry submits the information is highly sensitive to the Premier. The ministry submits the notes were created strictly for law enforcement purposes, to protect the personal safety of the Premier. The ministry submits the notes were never intended to be disclosed in the manner contemplated by this appeal and the Premier did not expect the notes would be disclosed for a non-law enforcement purpose. The ministry raises concerns that the disclosure of the record would erode the Premier's privacy. The ministry notes the Premier is entitled to the same privacy rights as any other citizen and the disclosure of his personal information in contravention of these rights could be expected to be "highly distressing."

[32] The appellant claims section 21(1) does not apply to the dates the Premier attended the restaurant. The appellant does not submit that any factors weighing in favour of disclosure apply.

[33] Upon review of the parties' representations, I find the factor in section 21(2)(f) should be given minimal weight in these circumstances. The factor in section 21(2)(f) is intended to weigh against disclosure when the evidence shows that the personal information is highly sensitive. To be considered "highly sensitive", there must be a reasonable expectation of significant personal distress if the information is disclosed.<sup>14</sup> For example, personal information about witnesses, complainants or suspects in a police investigation may be considered highly sensitive.<sup>15</sup>

[34] The information in the present appeal consists only of the dates the Premier attended the restaurant and does not include any of the notes that were created by OPP officers in relation to the Premier's personal safety at the restaurant. Nonetheless, I acknowledge the ministry's security concerns regarding the disclosure of the dates that the Premier visited the restaurant, particularly since, according to media reporting, it appears to be a restaurant he frequents regularly and the information could reveal a pattern to his attendance. However, I do not find the information is akin to information such as recordings of 911 calls,<sup>16</sup> which could contain explicit and distressing personal

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<sup>13</sup> Orders PO-2267 and PO-2733.

<sup>14</sup> Orders PO-2518, PO-2617, MO-2262 and MO-2344.

<sup>15</sup> Order MO-2980.

<sup>16</sup> Orders MO-3494 and PO-4152.

details.

[35] I also note the dates at issue occurred in the past and do not necessarily indicate when the Premier may be likely to attend the restaurant in the future. In this regard, it is not clear the Premier will experience significant distress if these dates are disclosed. Therefore, while I accept the Premier may be concerned about the disclosure of this information, I do not accept he would experience “significant distress” if the public were made aware of the dates he attended the restaurant between February 1 and December 1, 2022. Accordingly, I give this factor very little weight in my consideration of section 21(1).

[36] I have reviewed the other factors in section 21(2), both those favouring disclosure of the information and those favouring nondisclosure. I find that none apply.

[37] In summary, having considered and weighed the representations of the parties, I find the information at issue is subject to the section 21(1) exemption. I find that section 21(2)(f) is a relevant consideration, albeit of minimal weight, and no factor favouring disclosure applies. Therefore, I find the disclosure of the dates the Premier attended the restaurant would be an unjustified invasion of his personal privacy.

**Issue C: Is there a compelling public interest in disclosure of the records that clearly outweighs the purpose of the section 21(1) exemption?**

[38] Section 23 of the *Act*, the “public interest override”, exceptionally 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 13, 15, 15.1, 17, 18, 20, 21 and 21.1 does not apply where a compelling public interest in the disclosure of the record clearly outweighs the purpose of the exemption.

[39] For section 23 to apply, two requirements must be met. First, there must be a compelling public interest in the disclosure of the records. Second, this interest must clearly outweigh the purpose of the exemption.

[40] The appellant submits there is a public interest in the disclosure of the dates the Premier attended the restaurant. The appellant submits the dates the Premier attended the restaurant are not reflected in any official government records, despite it being a place the Premier has been known to hold meetings. The appellant states he sought records of the Premier’s attendance at the restaurant through calendars, itineraries, and even communications within the Premier’s Office, but there were no records identifying meetings at the restaurant.

[41] The appellant submits there is a clear public interest in understanding the Premier’s movements. The appellant submits that understanding his movements is vital for a complete government record of the Premier’s actions. The appellant notes there is an



RCMP investigation underway regarding if or how the government, including the Premier, communicated the Greenbelt plan to developers.<sup>17</sup> The appellant submits that any meetings the Premier may have held during that period are materially important to understanding the Premier's decisions regarding the Greenbelt matter. The appellant submits the government record will not be complete without the dates the Premier visited the restaurant because these dates will reveal important information about the Premier's location that can be used to "add to the picture of what the Premier was doing and who he was meeting with."

[42] The ministry submits there is no public interest in the disclosure of the Premier's private and personal attendance at a restaurant. The ministry submits that while the Premier may be a public official he is nevertheless entitled to personal privacy when he is not acting in a public role. Therefore, the ministry submits there is no public interest in divulging information about the Premier attending a place of business in his personal capacity.

[43] Previous IPC 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 citizens 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>18</sup> The IPC has also found that a "public interest" does not exist where the interests being advanced are essentially private in nature.<sup>19</sup> However, if a public interest raises issues of more general application, the IPC may find there is a public interest in disclosure.<sup>20</sup>

[44] I have reviewed the parties' representations and considered the information at issue. I am not satisfied there is a compelling interest in disclosure of the dates the Premier attended the restaurant. The appellant submits the dates would offer information to help complete the government record. While I accept the appellant's evidence that the Premier may have conducted government business at the restaurant on some of these dates, there is insufficient evidence before me to find that the release of dates could help discern when the Premier attended the restaurant in a professional versus personal capacity. Furthermore, while I agree there may be a compelling public interest in the Premier's government or official movements, there is no similar interest in the Premier's private or personal movements. I find releasing the requested dates in this case would result in little more than "a form of physical surveillance through records disclosure."<sup>21</sup>

[45] In addition, I find the appellant has not provided sufficient evidence to

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<sup>17</sup> In October 2023, the RCMP announced that it launched a criminal investigation into the Premier's plan to open up Greenbelt land for development. See: <https://www.cbc.ca/news/canada/toronto/rcmp-criminal-investigation-ford-greenbelt-1.6991595>.

<sup>18</sup> Orders P-984 and PO-2556.

<sup>19</sup> Orders P-12, P-347, and P-1439.

<sup>20</sup> Order MO-1564.

<sup>21</sup> See footnote 10, above.

demonstrate how the disclosure of the dates the Premier attended a specific restaurant would serve the purpose of informing or enlightening citizens about the activities of their government or allowing them in some way to express their opinion or make political choices.

[46] I acknowledge the appellant's argument that the public has a right to information relating to any official meetings the Premier may have attended regarding the Greenbelt matter. However, I find the appellant has not demonstrated how the dates of the Premier's attendance at the restaurant for either personal or professional purposes would offer insight into the Premier's actions or decisions in relation to the Greenbelt matter. Specifically, the dates of the Premier's attendance on their own would not offer insight into what the Premier was doing and who he was meeting with, as the appellant suggests. Further, the appellant did not provide any evidence to suggest the Premier only attended the restaurant to discuss government business or the Greenbelt matter.

[47] Based on my review of the dates the parties' representations, I am unable to find there is a compelling public interest in the disclosure of the dates the Premier attended the restaurant. Specifically, I find there is not enough evidence to conclude the dates the Premier attended the restaurant could inform the citizenry about the activities of government. Moreover, I find that even if there was a compelling public interest in knowing the dates of the Premier's attendance at the identified restaurant, there is insufficient evidence before me to find that the compelling public interest outweighs the purpose of the personal privacy exemption. I note the appellant's representations do not address how the public interest in the dates of the Premier's attendance at the restaurant outweigh his right to personal privacy.

[48] I recognize the Premier is a public figure. I also accept that his actions and decisions relating to his public office are of public interest. However, the Premier is still entitled to privacy with respect to his personal matters and that includes the dates at which he dines or attends a local restaurant. Previous IPC orders have found that while a public figure has a lessened expectation of privacy, they are still entitled to privacy with respect to their personal matters.<sup>22</sup> I find further support for this principle in *Dagg*, in which Justice La Forest stated,

The fact that persons are employed in government does not mean that their personal activities should be open to public scrutiny. By limiting the release of information about specific individuals to that which relates to their position, the *Act* strikes an appropriate balance between the demands of access and privacy. In this way, citizens are ensured access to knowledge about the responsibilities, functions and duties of public officials without unduly compromising their privacy.<sup>23</sup>

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<sup>22</sup> Order MO-2928.

<sup>23</sup> *Dagg*, para. 97.

[49] In conclusion, I find that there is not a compelling public interest in the dates which would outweigh the purpose of the personal privacy exemption. I find the information at issue is exempt under section 21(1) of the *Act*.

**ORDER:**

I uphold the ministry's decision and dismiss the appeal.

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

Justine Wai  
Adjudicator

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April 1, 2025