

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER PO-4646

Appeal PA23-00459

Ministry of the Solicitor General

April 25, 2025

Summary: The appellant requested access to OPP records pertaining to background checks she was required to undertake. The ministry granted partial access to responsive records, withholding CPIC coding information, police codes, internal police contact information, and other information based on the law enforcement exemption (section 49(a), read with 14(1)), the personal privacy exemption (section 49(b)) and/or on the basis that it was not responsive to the request. In this order, the adjudicator upholds the ministry's decision except as it relates to the internal police contact information and she orders this information to be disclosed.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, sections 49(a), 14(1)(i), and 14(1)(l).

OVERVIEW:

[1] This appeal arises from a request made to the Ministry of the Solicitor General (the ministry) for specified Ontario Provincial Police (OPP) records about the requester. The requester made the request to help understand why she was required to undertake a background check in the course of a name change application.

[2] The ministry granted partial access to responsive records, withholding portions of information pursuant to the law enforcement exemption (section 49(a), read with 14(1)) and the personal privacy exemption (section 49(b)) of the *Act*, as well as on the basis that some of the information was not responsive to the request.

[3] The requester, now the appellant, appealed the ministry's decision to the Ontario Information and Privacy Commissioner (IPC). A mediated resolution was not achieved and the file transferred to the adjudication stage of the appeal process.

[4] The appeal came to the adjudication process initially to adjudicate only the adequacy of the decision letter as the appellant had appeared to indicate that she did not seek access to the withheld information. I formed the preliminary view that the decision letter was adequate and there were no grounds to conduct an inquiry. In response to my preliminary view (shared with the appellant by letter), the appellant clarified that she continued to seek access to the withheld information.

[5] In these circumstances, I decided to conduct an inquiry into the ministry's decision to withhold information. I sought and received representations from both the ministry and the appellant. Representations were shared in accordance with the IPC's *Code of Procedure*.

[6] In this order, I order the ministry to disclose an additional portion of the records but otherwise uphold the ministry's decision.

RECORD:

[7] The information at issue is contained on four pages of records from the Security Enquiry Unit of the OPP. They contain information pertaining to background checks about the appellant and other unrelated individuals.

ISSUES:

- A. Is the information that has been withheld on the basis that it is not responsive reasonably related to the request?
- B. Is the responsive withheld information exempt from disclosure under the discretionary law enforcement exemption (section 49(a), read with section 14(1)(i) or (l))?

DISCUSSION:

Preliminary matter

[8] This decision deals only with whether the ministry is entitled to withhold access to portions of information on four of the five pages of records disclosed to the appellant in response to her access request.

[9] As noted above, the appellant made the access request as part of her efforts to

obtain more information about why she was asked to provide a background check in the context of a name change application. Specifically, the appellant sought “the record that explains exactly why [the appellant] specifically, individually, was flagged by section 7 [of the Name Change Act],” which resulted in the appellant having to complete a criminal records check.

[10] In its representations in the inquiry into this appeal, the ministry provided information about name change applications and background checks. I do not elaborate on these topics in this order as they are not directly relevant to the issues in the appeal. However, I acknowledge that these explanations were provided to the appellant.

Issue A: Is the information that has been withheld on the basis that it is not responsive reasonably related to the request?

[11] The ministry withheld information on pages 3, 4, and 5 on the basis that it is not responsive to the appellant’s request. To be considered responsive to a request, records must reasonably relate to the request.¹ Institutions should interpret requests generously in order to best serve the purpose and spirit of the *Act*. Generally, if a request is unclear, the institution should interpret it broadly rather than restrictively.²

[12] The reasons that the ministry says that it withheld information as non-responsive can be grouped into three general categories: (1) information that indicates who, when, and where the responsive pages were printed for the purposes of the access request, (2) information about other individuals who were also undergoing background checks (unrelated to the appellant), and (3) police coding.

[13] The appellant did not make any arguments to specifically oppose the ministry’s position on this point. However, throughout the appeal, the appellant has sought more specific reasons for why information was withheld.

[14] Having reviewed the withheld information myself, I agree that information in categories 1 and 2 is not reasonably related to the appellant’s request and I uphold the ministry’s decision. Regarding category 1, information indicating who, when, and where the responsive pages were printed for the purpose of the access request is not connected nor could it shed any light on the appellant’s background check. Regarding category 2, I accept that it contains the names of other individuals who also required a background check around the same time as the appellant. Information about these other individuals has no relation or connection to the appellant’s background check and it is therefore not reasonably related to her request.

[15] On the other hand, the police coding information is reasonably related to the appellant when it relates to the appellant’s background check. I will therefore consider

¹ Orders P-880 and PO-2661.

² Orders P-134 and P-880.

the ministry's alternative claim about police coding at Issue B, next.

[16] Because I find that the information about other individuals is not responsive to the request (category 2), it is not necessary to consider the ministry's alternative claim that this information is exempt from disclosure under the personal privacy exemption (section 49(b)).

Issue B: Is the responsive withheld information exempt from disclosure under the discretionary law enforcement exemption (section 49(a), read with section 14(1)(i) or (l))?

[17] All of the records at issue in the appeal contain recorded information that would reveal something of a personal nature about the appellant, that is, the appellant's personal information within the meaning of the *Act*.³ The ministry has therefore appropriately considered the request and the appellant's right of access under sections 47 and 49(a) of the *Act*, the sections dealing with requests for access to one's own personal information.

[18] To withhold the following information on pages 2 and 3, the ministry claims the exemption at section 49(a), read with sections 14(1)(i) and 14(1)(l): coding information from the Canadian Police Information Centre (CPIC), other OPP codes and internal police contact information.

[19] Sections 14(1)(i) and (l) of the *Act* state:

(1) A head may refuse to disclose a record if the disclosure could reasonably be expected to,

(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;

...

(l) facilitate the commission of an unlawful act or hamper the control of crime.

[20] The law enforcement exemption must be approached in a sensitive manner.⁴ Parties resisting disclosure of information under this exemption cannot simply assert that the harms under section 14 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 14 are self-evident and can be proven

³ Definition of "personal information" in section 2.

⁴ *Ontario (Attorney General) v. Fineberg* (1994), 19 O.R. (3d) 197 (Div. Ct.).

simply by repeating the description of harms in the *Act*.⁵

[21] For section 14(1)(i) to apply, there must be a reasonable basis for concluding that disclosure of the information at issue could be expected to 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. Although this exemption is found in a section of the *Act* that deals primarily with law enforcement matters, it is not restricted to law enforcement situations. It can cover a system or procedure that requires protection, even if those things are not connected to law enforcement.⁶

[22] For section 14(1)(l) to apply, there must be a reasonable basis for concluding that disclosure of the information at issue could reasonably be expected to facilitate the commission of an unlawful act or hamper the control of crime.

[23] In her representations, the appellant explains that she is seeking the reasons why the ministry has applied the law enforcement exemptions it has, pointing to IPC Order PO-2844, an order which explains that parties resisting disclosure under section 14(1) must show that there is more than speculative risk of the stated harm.

[24] The ministry submits that the CPIC coding is exempt under sections 14(1)(i) and 14(1)(l), stating that disclosure this information could compromise the security of the CPIC database because it would reveal how it is used. The ministry refers to IPC Orders PO-2582 and PO-3075, orders in which adjudicators have found similar information to be exempt. Regarding section 14(1)(l), the ministry says that disclosure of the CPIC coding information could reasonably be expected to facilitate the commission of a crime or hamper crime control because it would leave CPIC vulnerable to data corruption.

[25] The ministry submits that the OPP codes and the internal police contact information (on pages 2 and 3) are exempt under section 14(1)(l). It says that this information is used by the OPP and the policing community for internal communications and to preserve police officer and community safety. The ministry refers to several prior IPC Orders that have held that police codes are exempt, as discussed in Order PO-2409. The ministry says that disclosure of the police codes would make it easier for individuals carrying out criminal activities to obtain knowledge of communication systems operate.

[26] The ministry is correct – there are several IPC orders that have found that disclosure of police codes and CPIC coding could reasonably be expected to facilitate the commission of an unlawful act or hamper the control of crime – meaning that this information is exempt from disclosure under section 14(1)(l). I am not bound by the approach taken by other IPC adjudicators, but I have no reasonable basis to depart from this approach. When I consider that the law enforcement exemption must be approached in a sensitive manner, that the coding information is specialized to law enforcement, and

⁵ Orders MO-2363 and PO-2435.

⁶ Orders P-900 and PO-2461.

that disclosure under the *Act* is disclosure to the world, I find that the discrete coding information withheld by the ministry is eligible for exemption under section 14(1)(l). Because of this finding, I do not need to consider the ministry's alternative claim that section 14(1)(i) applies to the CPIC coding information.

[27] Lastly, I am unable to find that the internal police contact information (on page 2) is eligible for exemption under section 14(1)(l). I recognize that I must interpret the law enforcement exemptions in a sensitive manner. However, parties resisting disclosure must also provide detailed evidence of harms that could reasonably be expected to occur. The ministry says that disclosure of the contact information at issue could impact officer and community safety. However, when I consider the information at issue, I am unable to extrapolate how disclosure of this information could cause such an impact. I will order the ministry to disclose this information to the appellant.

[28] The section 49(a) exemption is discretionary, meaning that the institution can decide to disclose information even if the information qualifies for exemption. On appeal, the IPC may conclude that the institution did not exercise its discretion at all or that it did so improperly.

[29] The ministry says that it properly exercised its discretion to apply the exemptions in this case, stating that it weighed the appellant's interest in access and withheld only minimal information, applying the exemptions narrowly.

[30] I am satisfied that the ministry exercised its discretion properly. With a very small exception (relating to the contact information), the ministry disclosed as was reasonably severable from the records to the appellant. I am also satisfied, based primarily on the ministry's representations in this inquiry, that it acted in a way that respected the appellant's greater right of access to her own personal information.

ORDER:

1. I order the ministry to disclose to appellant the withheld internal police contact information on page 2 by **May 26, 2025**.
2. I otherwise uphold the ministry's decision.
3. In order to verify compliance with order provision 1, the IPC reserves the right to require the ministry to provide a copy of the access decision and the record sent to the appellant.

Original Signed by: _____

Valerie Jepson
Adjudicator

April 25, 2025