Information and Privacy Commissioner,
Ontario, Canada

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

ORDER MO-4692

Appeal MA23-00735

Toronto Police Services Board

September 11, 2025

Summary: An individual made a request under the *Municipal Freedom of Information and Protection of Privacy Act* for access to the specified memorandum book entries of a named police officer. The police granted partial access to the responsive records, withholding some information on the basis that disclosure would be an unjustified invasion of the police officer's personal privacy (section 14(1)).

In this order, the adjudicator finds that the police properly withheld the information under the mandatory personal privacy exemption at section 14(1). She upholds the police's decision and dismisses the appeal.

Statutes Considered: *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, sections 2(1) (definition of "personal information"), 14(1), and 14(3)(a).

Orders and Investigation Reports Considered: Orders MO-2911 and MO-2862.

OVERVIEW:

[1] This order determines whether the disclosure of personal information that was withheld from a police officer's memorandum book would constitute an unjustified invasion of personal privacy under section 14(1) of the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*).

[2] The Toronto Police Services Board (the police) received a request pursuant to the

Act for the memorandum book entries of a named police officer from a specified date.

[3] The police issued a decision granting partial access to three pages from the named officer's memorandum book, citing section 14(1) (personal privacy) of the *Act* to deny access to some information. The police also advised that some information was removed from the records as it was deemed non-responsive to the request.

[4] The requester, now the appellant, appealed the police's decision to the Information and Privacy Commissioner of Ontario (IPC).

[5] During mediation, the appellant confirmed that he is only seeking access to the information that appears between the 12:00 entry on page four and the 21:00 entry on page six of the records. Accordingly, the information falling before the 12:00 entry and after the 21:00 entry is not at issue in this appeal.

[6] The police issued a revised decision indicating that they are no longer claiming that any of the information between the 12:00 entry on page four and the 21:00 entry on page six is non-responsive to the request. The police confirmed that some information from within this time range was withheld pursuant to section 14(1) of the *Act*. As the only remaining non-responsive information falls outside of the 12:00 to 21:00 time range, responsiveness is similarly not at issue in this appeal.

[7] As mediation did not resolve the appeal, the file was transferred to the adjudication stage of the appeal process, where an adjudicator may conduct an inquiry under the *Act*.

[8] The adjudicator originally assigned to the appeal sought and received representations from the police. The appeal was then transferred to me to complete the inquiry. I sought and received representations from the appellant and determined that I did not need to hear from the parties further before issuing this decision.

[9] In this order, I uphold the police's decision to withhold portions of the officer's memorandum book pursuant to the mandatory personal privacy exemption at section 14(1) and dismiss the appeal.

RECORDS:

[10] The records at issue consist of three pages (pages 4-6) from an officer's memorandum book (officer's notebook or officer's notes).

ISSUES:

A. Do the records contain "personal information" as defined in section 2(1) and if so, whose personal information is it?

B. Does the mandatory personal privacy exemption at section 14(1) apply to the information at issue?

DISCUSSION:

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

[11] The police cited section 14(1) to withhold the information at issue. The mandatory personal privacy exemption at section 14(1) only applies to "personal information". Therefore, I must first determine whether the records contain personal information, and if so, to whom the personal information relates.

[12] Section 2(1) of the *Act* defines "personal information" as "recorded information about an identifiable individual". Recorded information is information recorded in any form, including paper and electronic records.[1]

[13] Information is "about" an individual when it refers to them in their personal capacity, meaning that it reveals something of a personal nature about that 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.[2]

[14] Section 2(1) of the *Act* contains some examples of personal information[3], though this list is not exhaustive. Therefore, information that does not fall under paragraphs (a) to (h) may still qualify as personal information.

Representations

[15] The police submit that the records contain the personal information of the officer named in the appellant's request. The police explain that on the date specified in the request, the officer was attending a community event in a professional capacity. The police submit that although the officer's attendance was in a professional capacity, the withheld information is of a personal nature as it relates to injuries that the officer sustained while participating in the event. The police submit that the injuries were not a result of any altercation and did not involve the appellant.

[16] The appellant submits that the withheld information is associated with the officer in his professional capacity and is therefore not personal information as defined by section 2(1) of the *Act*. The appellant submits that any information about the officer's injuries

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[1] See the definition of "record" in section 2(1) of the Act.
[2] Order PO-1880, upheld on judicial review in Ontario (Attorney General) v. Pascoe, [2002] O.J. No. 4300 (C.A.).
[3] Specifically, paragraphs (a) to (h) of the definition of personal information at section 2(1).

merely describes what happened to the officer while he was attending the event and therefore does not constitute his personal information.

[17] The appellant cites Orders MO-2911 and MO-2862, arguing that in the latter, the adjudicator "confirmed that any information relating to police officers in their professional duties is not 'personal information' under the definition of that term in section 2(1) of [the *Act*]". The appellant also includes an excerpt from *R v. Schertzer*[4], in which a former police superintendent explains the "reasons for requiring police officers to make notes" and describes the memorandum book as a "historical document".

[18] Finally, the appellant disputes the police's claim that the information withheld from page six of the officer's notes relates to injuries that the officer sustained while participating in the community event. The appellant submits that based on the officer's notes, it is clear that the officer returned to the station after the community event and did not report off duty until 21:00. The appellant believes that while at the station, the officer "was monitoring the radio transmissions" of his unit while they attended the appellant's residence and that the withheld information relates to this, not his injuries.

[19] The appellant notes that the police do not rely on the section 14(3)(a) presumption in their representations, arguing that this proves that the records do not actually contain information relating to injuries that the officer sustained.

Analysis and findings

[20] I have reviewed the officer's notes and find that they contain information relating to the medical history of the officer, which falls within paragraph (b) of the definition of personal information in section 2(1) of the *Act*.

[21] According to section 2(2.1) of the *Act*, 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. While the parties agree that the officer attended the community event in his professional capacity, they disagree on whether the information withheld from his notes constitutes his personal information. The appellant submits that the information is not the officer's personal information as it merely describes what happened to the officer while he was acting in his professional capacity.

[22] Previous IPC orders have found that even if information relates to an individual in a professional, official or business capacity, it may still be "personal information" if it reveals something of a personal nature about the individual.[5] I have reviewed the officer's notes and accept that all of the withheld information relates to injuries that the officer sustained while participating in the community event. In this case, although the officer attended the community event and created the records in his professional capacity, I find that the withheld information about the officer's injuries constitutes his personal

[4] *R v. Schertzer*, 2007 CanLII 38577 (ON SC).
[5] Orders P-1409, R-980015, PO-2225 and MO-2344.

information as it would reveal something of a personal nature about him. The officer is identifiable from the information in the records, and this information is personal in nature.

[23] I have carefully considered the decisions that the appellant references in his representations. Orders MO-2911 and MO-2862 both involve requests for police records about lost or stolen firearms, ammunition, and use-of force equipment. The records at issue in both appeals include occurrence reports, which contain narratives written by officers whose use-of-force equipment was lost or stolen. In Order MO-2911, the police disclosed the narratives to the appellant, but withheld the officers' names, whereas in Order MO-2862, the police withheld the occurrence reports in their entirety.

[24] In both decisions, the adjudicator states that:

> In my view, the information in these narratives relating to the officers is about their professional duties and does not reveal anything personal about them. Each of these individuals was assigned use-of-force equipment in their [professional], not their personal capacity. Similarly, each officer had a professional duty to report the loss or theft of such equipment.
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> […]
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> I find, therefore, that the information in the narratives written by the officers is associated with them in a professional, rather than a personal capacity. It does not reveal anything of a personal nature about them. Accordingly, I find that the information in these narratives does not qualify as their personal information.

[25] The appellant appears to interpret Orders MO-2911 and MO-2862 to mean that information that is included in a police narrative or associated with police officers in their professional capacity is never "personal information" as defined by section 2(1) of the *Act*. I do not agree with this interpretation. As indicated above, information that relates to an individual in a professional capacity may still be "personal information" if it reveals something of a personal nature about them.

[26] The narratives in Orders MO-2911 and MO-2862 were about the loss or theft of use-of-force equipment and to my knowledge, did not contain any of the officers' medical information. I am not convinced that information about the loss and theft of use-of-force equipment is analogous to the information about the officer's injuries that has been withheld in this appeal. For these reasons, I find that Orders MO-2911 and MO-2862 have limited relevance to my determination of whether the withheld information constitutes the officer's personal information.

[27] I have also reviewed *R v. Schertzer* and find that it concerns an application, "under section 7 of the Canadian Charter of Rights and Freedoms, for an order that the notes

and notebooks of the accused [police officers] are inadmissible as evidence at their trial".[6] Specifically, the case deals with the applicants' argument that "allowing the prosecution to rely on [the officers'] notebooks infringes the principle against self-incrimination that is subsumed in the rights guaranteed by section 7 of the *Charter*".[7] I have reviewed the excerpt that the appellant includes in his representations and understand that it discusses the reasons for requiring police officers to make notes. However, I find that the appellant has not adequately explained how evidence which was adduced in the context of a criminal proceeding should inform my decision-making pursuant to an entirely different legislative scheme and context (i.e. the access scheme set out in the *Act*).

[28] Finally, I understand that the appellant believes that the information withheld from page six of the officer's notes does not relate to the officer's injuries, but rather to the officer's alleged involvement in his unit's execution of a warrant at the appellant's residence. I find that this claim is not supported by my review of the records. I also note the appellant's reference to the section 14(3)(a) presumption and discuss it below.

[29] Having found that the records contain the officer's personal information, I will consider the application of the personal privacy exemption at section 14(1) to the information at issue.

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

[30] One of the purposes of the *Act* is to protect the privacy of individuals with respect to personal information about themselves held by institutions.

[31] Section 14(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.

[32] The section 14(1)(a) to (e) exceptions are relatively straightforward. If any of the five exceptions covered in sections 14(1)(a) to (e) exist, the institution must disclose the information. The parties do not rely on any of the section 14(1)(a) to (e) exceptions and I find that they do not apply in this appeal.

[33] The section 14(1)(f) exception is more complicated. It requires the institution to disclose another individual's personal information to a requester only if this would not be an "unjustified invasion of personal privacy". Sections 14(2), (3) and (4) provide guidance in determining whether the disclosure of the other individual's personal information would be an unjustified invasion of personal privacy.

[34] Sections 14(3)(a) to (h) outline several situations in which disclosing personal information is presumed to be an unjustified invasion of personal privacy and should

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[6] *R v. Schertzer*, *supra* note 4.
[7] *Ibid.*

generally be considered first.[8] If any of the sections 14(3)(a) to (h) presumptions apply, the personal information cannot be disclosed unless one of the circumstances in section 14(4) apply or there is a compelling public interest under section 16 that means the information should nonetheless be disclosed.[9] The parties do not rely on any of the circumstances in section 14(4) or on the public interest override at section 16.

[35] If the personal information at issue does not fit within any presumptions under section 14(3), one must next consider the factors set out in section 14(2) to determine whether disclosure would be an unjustified invasion of personal privacy. Section 14(2) contains a non-exhaustive list of factors that may be relevant in determining whether the disclosure of personal information would be an unjustified invasion of personal privacy.[10] Some of the factors weigh in favour of disclosure, while others weigh against disclosure. If no factors favouring disclosure are present, the section 14(1) exemption (i.e. the general rule that personal information should not be disclosed) applies because the exception in section 14(1)(f) has not been proven.[11]

Representations

The police's representations

[36] By way of background, the police explain that on the date specified in the request, officers attended the appellant's home in response to a call for service. An interaction then took place during which a use-of-force option (taser) was deployed against the appellant's sibling. The police submit that the officer named in the request did not attend the appellant's home in response to the call for service and was not involved in the interaction with the appellant's sibling. The police state that they have responded to twenty-two (22) access requests initiated by the appellant and his family regarding the events of that date.

[37] The police do not reference any of the section 14(3) presumptions in their representations. The police indicate that while they cited section 14(3)(b) in their decision letter, they are no longer relying upon it.

[38] The police submit that the factor at section 14(2)(f) (highly sensitive) applies and weighs against disclosure. The police submit that the personal information is highly sensitive as it consists of medical information relating to the officer. The police also note that the appellant is currently facing criminal charges of harassment against the officer named in the request and another associated party.

[39] The police submit that none of the factors weighing in favour of disclosure apply.

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[8] If any of the section 14(3) presumptions are found to apply, they cannot be rebutted by the factors in section 14(2) for the purposes of deciding whether the section 14(1) exemption has been established.
[9] *John Doe v. Ontario (Information and Privacy Commissioner)* (1993), 13 O.R. (3d) 767 (Div.Ct.).
[10] Order P-239.
[11] Orders PO-2267 and PO-2733.

The police submit that disclosure would not serve the purpose of subjecting the activities of the police to public scrutiny (section 14(2)(a)) or promote public health or safety (section 14(2)(b)). The police also submit that the personal information is not relevant to a fair determination of rights affecting the appellant (section 14(2)(d)).

[40] The police submit that they made minimal redactions to the records. The police indicate that during mediation, the appellant advised that information about the taser and its deployment was of paramount importance. The police submit that in response, they confirmed that only the officer's personal information was withheld and that there was no mention of a taser or taser deployment in the responsive officer's notes.

The appellant's representations

[41] The appellant states that on the date specified in the request, officers attended his home and tased his sibling three times. The appellant alleges that two named officers each deployed one cartridge and explains why he believes that the third cartridge was not deployed by the officer named in the request, but by another officer whom the police have repeatedly refused to identify. The appellant submits that the police are attempting to protect the officers by withholding information in response to his request.

[42] The appellant maintains that the officer's notes do not contain personal information. As a result, the appellant submits that the section 14(3) presumptions and the section 14(2) factors are not applicable. The appellant also submits that the police have not referenced any of sections 14(2), (3) or (4), despite claiming that disclosure of the withheld information would be an unjustified invasion of personal privacy.

[43] The appellant reiterates that the police's failure to cite the section 14(3)(a) (medical information) presumption in their decision letter and representations proves that the records do not actually contain information relating to the officer's injuries. As previously indicated, the appellant believes that the officer returned to the station to support his unit while they attended the appellant's residence. The appellant maintains that the withheld information relates to a criminal investigation and that this is why the police initially cited the section 14(3)(b) presumption in their decision.

Analysis and findings

Do any of the presumptions listed in 14(3) apply?

[44] The parties do not rely upon any of the section 14(3) presumptions. However, since the personal privacy exemption at section 14(1) is mandatory, I must nevertheless consider whether any of the section 14(3) presumptions apply.[12]

[45] The appellant argues that because the police do not cite the section 14(3)(a) presumption, this means that the information at issue does not relate to the officer's

[12] See, for example, Orders PO-4690, PO-4578, and PO-4375.

injuries. Section 14(3)(a) states:

> A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy if the personal information,
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> > relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation[.]

[46] I previously found that all of the information that was withheld from the officer's notes relates to injuries that the officer sustained while participating in the community event. I accept that this information relates to a medical "history, diagnosis, condition, treatment or evaluation", as set out in section 14(3)(a). As a result, irrespective of the police's failure to cite this section, it is my view that the presumption at section 14(3)(a) applies.

[47] Having found that the section 14(3)(a) presumption applies to the withheld information, disclosure is presumed to be an unjustified invasion of the officer's personal privacy and the information is exempt under section 14(1).

Do any of the factors listed in 14(2) apply?

[48] As the presumption at section 14(3)(a) applies to the withheld information, it is not necessary for me to consider the factors at section 14(2). However, even if section 14(3)(a) did not apply, disclosure of the withheld information would be an unjustified invasion of the officer's personal privacy for the reasons that follow.

[49] Section 14(2) lists factors that may be relevant in determining whether disclosure of personal information would constitute an unjustified invasion of personal privacy.

[50] The police submit that no factors weigh in favour of disclosure. The appellant does not explicitly cite any of the section 14(2) factors, maintaining that section 14(2) is not applicable because the officer's notes do not contain personal information.

[51] Based on my review of the records, I agree with the police that no factors weigh in favour of disclosure. I find that disclosure of information relating to injuries that the officer sustained during a community event would not subject the police's activities to public scrutiny (section 14(2)(a)) or promote public health and safety (section 14(2)(b)).

[52] I also find that disclosure would not be relevant to a fair determination of rights affecting the appellant (section 14(2)(d)). There is no evidence before me to suggest that there is a proceeding that is either existing or contemplated (as opposed to one that has already been completed), or that the personal information at issue is required in order to prepare for any such proceeding or to ensure an impartial hearing.

[53] I find that the appellant has not established that any factors weighing in favour of disclosure apply. As the appellant has not demonstrated that disclosure would not be an

unjustified invasion of personal privacy (the exception at section 14(1)(f)), the general rule that personal information should not be disclosed applies.

[54] In conclusion, I find that disclosure of the withheld information would be an unjustified invasion of the police officer's personal privacy and the information is exempt from disclosure under section 14(1) of the *Act*.

ORDER:

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

Original Signed by: September 11, 2025

Anda Wang
Adjudicator