

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER PO-4729

Appeal PA21-00148

Ministry of the Solicitor General

September 18, 2025

Summary: The appellant made seven requests to the Ministry of the Attorney General under the *Freedom of Information and Protection of Privacy Act* for access to information about investigations into the disappearance and/or death(s) of eight individuals in Ontario.

The ministry disclosed some information but relied on the law enforcement exemption in section 14(1)(l) and the personal privacy exemption at section 21(1), to deny access to the information it withheld. The appellant appealed the ministry's decision and argued that the ministry did not conduct a reasonable search for responsive records. The appellant also alleged that it was in the public interest that the withheld information be disclosed (section 23).

In this order the adjudicator upholds the ministry's decision to withhold certain information under sections 14(1)(l) and 21(1) and finds that ministry conducted a reasonable search for responsive records.

However, he also finds that a portion of the records do not qualify for exemption under section 14(1)(l) and some withheld information does not qualify as personal information and therefore the privacy exemption cannot apply. He orders the ministry to disclose that information to the appellant. The adjudicator also determines that it is not in the public interest that the remaining withheld personal information be disclosed.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, sections 2(1) (definition of personal information), 2(2), 2(3), 10(2), 14(1)(l), 21(1), 21(3)(b), 23 and 24.

BACKGROUND:

[1] The Ministry of the Solicitor General (the ministry) received seven requests¹ under the *Freedom of Information and Protection of Privacy Act* (the *Act* or *FIPPA*) for access to information pertaining to the investigation into the disappearance and/or death(s) of eight individuals in Ontario. The requests stated as follows:

I am interested in a copy of the police report and investigation, including police photographs, interviews, statements, sketches, findings, notes, suspects, search and rescue reports, maps, conclusions, etc. for each of the cases listed below.

Request 1

Name: [named individual]

Location: [specified location]

Incident: It is believed that [named individual] became lost while staking claims near [specified location]. [Named individual] has never been found.
Case reference: [specified number]

Date of Incident: November 1, 1960

*After further research, I have learned that all those involved or potentially involved are no longer alive. New information has come to light that previous reasons for a record disclosure would no longer apply to. I respectfully ask for your cooperation in disclosing the material.

Request 2

Name: [named individual]

Location: [specified location]

Incident: 74 year-old [named individual] was last seen blazing a trail on a prospecting claim south of [specified location]. He never returned and was never found.

Date of Incident: May 29, 1957

¹ Although set out in one letter, the appellant's multi-part request identified seven types of information he was seeking access to, referring to each part as a separate request. In this order I will similarly refer to each of the seven separate parts as a "request."

*Further research reveals that previous reasons for a record disclosure are no longer relevant to this case file. i.e. 14(1) etc. I respectfully ask for your cooperation in disclosing the material.

Request 3

Name: [named individual]

Location: [specified location]

Incident: [named individual] went picking berries in the area of [specified location] and never returned. A search party organized by Constable [named constable] was unable to locate the man. In [specified date], the berry bucket belonging to [named individual] was located in the area.

Date of Incident: July 1946

Request 4

Name: [named individual] and [named individual]

[Named individual] and [named individual] were last seen and reported missing to the [specified] OPP on October 29, 1959. The two men had been at a lodge operated by [named individual] at [specified location]. [Named individual] and [named individual] were both last seen between [specified location].

Case reference: [specified number]

Request 5

Name: [named individual]

On August 15, 1986 [named individual] was last seen by a family member on the family farm near [specified location]. An extensive search failed to locate [named individual]. Several possible sightings were reported after [specified date], but none led to [named individual]'s location.

Case reference: [specified number]

Request 6

Name: Unidentified Remains (Male, 30 - 50)

Details: On May 1, 1976 the skeletal remains of a male, were located in area of heavy bush north of [specified location]. Police reports approximate the height of the deceased to be 5'8", however, no anthropological analysis

was carried out on the long bones so this value is merely a non-scientific estimate. It is believed that he died approximately 10 months to 5 years prior to discovery.

Case reference: [specified number]

Request 7

Name: [named individual]

Details: [named individual] has been missing from [specified location] since sometime during 1935 to 1936.

Case reference: [specified number]

[2] The ministry issued a decision granting partial access to some records that were responsive to request 4. The ministry relied on sections 14(1)(a) (interfere with a law enforcement matter), 14(1)(l) (facilitate the commission of an unlawful act), 14(2)(a) (law enforcement report) and 21(1) (personal privacy) of the *Act*, to deny access to the portions of the records it withheld. The ministry's access decision also stated that no records exist that are responsive to requests 1 and 7 and because the incidents in requests 2, 3 and 6 were not investigated by the Ontario Provincial Police (OPP), there are also no responsive records for those requests. Finally, the ministry advised that the incident underlying request 5 was subject to an ongoing investigation and the records "cannot be released at this time."

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

[4] A mediator was assigned to explore possible resolution of the appeal. At mediation, the appellant took the position that despite the ministry's claim, records responsive to requests 1, 2, 3, 6 and 7 should exist. The appellant also confirmed that he is pursuing access to the information withheld from the records identified as responsive to request 4 and all the records responsive to request 5.

[5] As mediation did not resolve the appeal, it was moved to the adjudication stage of the appeals process where an adjudicator may decide to conduct an inquiry under the *Act*.

[6] I decided to commence an inquiry. I sought and received representations from the parties and they were exchanged between them in accordance with section 7 of the IPC's *Code of Procedure* and *Practice Direction 7*.

[7] During the inquiry, the ministry located additional records and issued two supplementary decision letters granting partial access to some of the requested records.

[8] The ministry ultimately provided 359 pages of responsive records to the IPC, being records responsive to requests 1, 4, 6 and 7 as well as records responsive to request 5.² Further representations were exchanged between the parties. In that exchange of representations, the appellant limited his concerns to obtaining access to information responsive to requests 1, 4, 5 and 7 and the reasonableness of the ministry's search for records responsive to requests 1 and 3.³ Accordingly, the reasonableness of the ministry's search for records responsive to requests 2 and 6 and access to the located records responsive to request 6 are no longer at issue in the appeal.

[9] Finally, there is non-responsive information as well as some duplication in the records. To the extent that withheld information is non-responsive information⁴ or was subsequently released in the same records in another round of disclosure by the ministry, I will not be addressing it in this order.⁵

[10] In this order I uphold the reasonableness of the ministry's search for records responsive to requests 1 and 3. I also uphold the ministry's decision, in part. I uphold the ministry's decision to withhold certain information under the law enforcement exemption at section 14(1)(l) and the personal privacy exemption at section 21(1). I find that it is not in the public interest that the exempt withheld personal information be disclosed. However, I find that a portion of the records do not qualify for exemption under section 14(1)(l) and other information does not qualify as personal information and therefore the privacy exemption cannot apply. I order the ministry to release that information to the appellant.

RECORDS:

[11] Remaining at issue in this appeal are the withheld portion of pages of police

² This provision of records was despite the ministry's original access decision which stated that no records exist that are responsive to requests 1 and 7 and that because the incidents in requests 2 and 6 were not investigated by the OPP, there were also no responsive records.

³ In his representations the appellant also agreed that the information that the ministry claimed to be subject to section 19 (solicitor-client privilege) should be withheld. Accordingly, the information withheld under section 19 is no longer at issue. In addition, he advised that he is not pursuing access to police codes, email addresses or cell phone numbers that may appear in the records. He advised, however, that he continued to seek access to Canadian Police Information Centre (CPIC) related information. Accordingly, any police codes, email addresses or cellphone numbers that appear in the records are also no longer at issue in the appeal. CPIC related information continues to remain at issue in the appeal.

⁴ This non-responsive information was withheld from pages 148, 152, 153, 157, 158, 164, 165, 168 and 169. There is also non-responsive information that has been withheld on many of the pages or records that consists of administrative information relating to the processing of the appellant's request, file identifiers or matters unrelated to the requests at issue. Accordingly, access to this information is also no longer at issue in the appeal.

⁵ In that regard, the information that the ministry withheld under section 14(1)(l) on page 101 of the records was disclosed to the appellant when he received an identical copy at page 191 of the records, so access to this information is no longer at issue in the appeal. Finally, page 92 of the records is illegible and I am unable to adjudicate upon it.

records, including OPP reports, officers' notes, emails, and letter correspondence.

ISSUES:

- A. Did the ministry conduct a reasonable search for records responsive to requests 1 and 3?
- B. Does the discretionary exemption at section 14(1)(l) related to law enforcement activities apply to portions of the records?
- C. Do the records contain "personal information" as defined in section 2(1) and, if so, whose personal information is it?
- D. Does the mandatory personal privacy exemption at section 21(1) apply to the information at issue?
- E. Is there a compelling public interest in disclosure of the information that clearly outweighs the purpose of the section 21(1) exemption?
- F. Can any of the records reasonably be severed under subsection 10(2) of the *Act*, without disclosing the information that falls under sections 14(1)(l) or 21(1)?

DISCUSSION:

Issue A: Did the ministry conduct a reasonable search for records responsive to requests 1 and 3?

[12] The appellant submits that the ministry's search for records responsive to requests 1 and 3 was not reasonable because it should have located additional records.

[13] If a requester claims that additional records exist beyond those found by the institution, the issue is whether the institution has conducted a reasonable search for records as required by section 24 of the *Act*.⁶

[14] Although a requester will rarely be in a position to indicate precisely which records the institution has not identified, they still must provide a reasonable basis for concluding that such records exist.⁷

[15] The *Act* does not require the institution to prove with certainty that further records do not exist.⁸ However, the institution must provide enough evidence to show that it has

⁶ Orders P-85, P-221 and PO-1954-I.

⁷ Order MO-2246.

⁸ *Youbi-Misaac v. Information and Privacy Commissioner of Ontario*, 2024 ONSC 5049 (Ont. Div. Ct.) at para 9.

made a reasonable effort to identify and locate responsive records;⁹ that is, records that are “reasonably related” to the request.¹⁰

[16] A reasonable search is one in which an experienced employee knowledgeable in the subject matter of the request makes a reasonable effort to locate records that are reasonably related to the request.¹¹

The parties representations

[17] As set out above, the appellant now only challenges the reasonableness of the ministry’s search for records responsive to requests 1 and 3. The ministry takes the position that it conducted a reasonable search for records that are responsive to requests 1 and 3.

[18] Although the ministry initially took the position that it had no records relating to request 1, it now takes the position that it has located all the records responsive to request 1 and granted partial access to them.

[19] The ministry also submits that it has searched for records responsive to request 3, but none were found. In support of its position, the ministry submits that it searched the Missing Children/Persons Unidentified Remains database and the Resolve¹² database, which also relates to missing persons and unidentified remains, as well as conduct a search with staff in the Northwest Region of the OPP, a location where it says any responsive records would have been found. It submits that despite these searches no records responsive to request 3 were found.

[20] The appellant submits that while additional access has been granted to portions of the records responsive to request 1, there are photographs missing. The appellant points to a specific incident report which cites an “OPP photographic report” that references seven photographs. The appellant states that although they are mentioned in the incident report, the seven photographs were not identified by the ministry as responsive records. He says that these photographs should be located.

[21] The appellant also submits that while the ministry’s search for records responsive to part 3 of the request “appears thorough” there is no mention of a search being conducted for a particular “officer’s field books/day journals,” which the ministry asserts do not exist.

[22] In support of his position that field books or journals should exist, the appellant submits that the investigating officer “spent a minimum of two weeks on the search and

⁹ Orders P-624 and PO-2559.

¹⁰ Order PO-2554.

¹¹ Orders M-909, PO-2469 and PO-2592.

¹² The ministry explains that this database was created in 2006 by the Missing Persons Unidentified Bodies Unit of the OPP and the Office of the Chief Coroner Ontario/Ontario Forensic Pathology Services. The database is a closed database and has been deactivated since 2017.

spent OPP resources and money on it.” He submits that OPP journals were historically stored at the Archives of Ontario but he was advised that the OPP has recently withdrawn these historical records to their own possession. He wonders where these records are now stored and if those historical records have been thoroughly searched for the officer’s notes.

[23] In response, the ministry submits that it specifically searched for the photographs and field books/day journals referenced by the appellant in his representations and did not identify any additional responsive records.

[24] The ministry states:

We do not dispute the appellant’s assertion that responsive records may have existed at one time. What we can say is that we have conducted extensive searches for all responsive records, and we have failed to identify the above-referenced records the appellant is still searching for.

...

We can appreciate the appellant’s disappointment that records that may have existed no longer do. However, we nevertheless submit that we conducted reasonable searches in accordance with the *Act*, and that we have demonstrated as such in this and past representations.

Analysis and finding

[25] I am satisfied that the ministry conducted a reasonable search for records responsive to requests 1 and 3.

[26] The ministry does not dispute the appellant’s assertion that responsive records may have existed at one time but states that they cannot be located now. The ministry’s representations demonstrate that it made reasonable efforts to locate records responsive to requests 1 and 3, including a targeted search for the photographs and field books/day journals referenced by the appellant. I accept that despite an additional search, no such records were located. Moreover, I am not persuaded that the appellant has established a reasonable basis for concluding that further responsive records exist.

[27] As noted above, although a requester will rarely be in a position to indicate precisely which records the institution has not identified, the requester still must provide a reasonable basis for concluding such records exist.¹³ In this case, although the appellant believes that additional records responsive to requests 1 and 3 exist, the ministry’s evidence demonstrates that it conducted a targeted search for those records, but none were found.

¹³ Order MO-2246.

[28] Additionally, as mentioned above, the ministry is not required to prove with certainty that additional records do not exist to satisfy the requirements of the *Act*. It must only show that it has made a reasonable effort to locate responsive records. Based on the evidence before me, I find that it has. The ministry's representations demonstrate that it made reasonable efforts to locate records responsive to requests 1 and 3 and no additional records were located. The appellant has not provided a sufficient basis to challenge my conclusion that a reasonable search was conducted for those records.

[29] For these reasons, I find that the ministry's search for records responsive to requests 1 and 3 was reasonable and in compliance with its obligations under section 24 of the *Act*.

Issue B: Does the discretionary exemption at section 14(1)(l) related to law enforcement activities apply to portions of the records?

[30] The ministry claims that the law enforcement exemption at section 14(1)(l) applies to portions of the records that were identified as responsive to requests 1 and 4.

[31] The ministry submits that it withheld what it describes as CPIC information on pages 57, 58, 93 and 94 on the basis that this information falls within the scope of section 14(1)(l) of the *Act*.

[32] The ministry also appears to have withheld information on pages 226, 236, 244, 263 and 317 under section 14(1)(l). The ministry submits that pages 236 and 244 contain internal information and file identifiers. It does not provide explicit representations on how section 14(1)(l) might apply to the withheld information on pages 226, 263 and 317, which include links to a form, links to photographs and a blank form.

[33] Section 14(1)(l) provides that:

A head may refuse to disclose a record where the disclosure could reasonably be expected to,

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

[34] Section 14(1)(l), as with other law enforcement exemptions, must be approached in a sensitive manner, because it is hard to predict future events in the law enforcement context so care must be taken not to harm ongoing law enforcement investigations.¹⁴

[35] Parties resisting disclosure of a record, in this case the ministry, cannot simply assert that the harms under section 14(1)(l) are obvious based on the record. The ministry must provide detailed evidence about the risk of harm if the information for which the exemption is claimed is disclosed. While harm can sometimes be inferred from

¹⁴ *Ontario (Attorney General) v. Fineberg* (1994), 19 O.R. (3d) 197 (Div. Ct.).

the records themselves and/or the surrounding circumstances, it should not be assumed that the harms under section 14(1)(l) are self-evident and can be proven simply by repeating the description of harms in the *Act*.¹⁵

[36] The ministry must show that the risk of harm is real and not just a possibility.¹⁶ However, it does 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.¹⁷

The parties' representations

[37] The ministry submits that the CPIC information it withheld under section 14(1)(l) includes the parameters of CPIC searches and disclosing it could reveal either information that has been added to CPIC, or circumstances when certain information would be added. It submits that knowing what types of information is added to CPIC and when it is added this would reveal how CPIC is operated and could be used to interfere with its operations. The ministry submits that pages 236 and 244 contain internal information and file identifiers.

[38] The appellant continues to seek access to the CPIC information that the ministry has withheld and submits that the ministry has not explained how disclosure of the withheld information would cause someone to commit an unlawful act or hamper the control of crime.

Analysis and finding

[39] For section 14(1)(l) to apply, the ministry must establish that there is a reasonable basis for concluding that disclosure of the information could be expected to facilitate the commission of an unlawful act or hamper the control of crime. For the reasons set out below, I find that the disclosure of the withheld information on pages 93 and 94 could reasonably be expected to facilitate the commission of an unlawful act or hamper the control of crime. I do not make the same finding with respect to the withheld information on pages 57, 58, 226, 236, 244, 263 and 317.

[40] Previous IPC orders have consistently found that the disclosure of CPIC access/transmission codes and query information could reasonably be expected to facilitate the commission of an unlawful act or hamper the control of crime.¹⁸

[41] From my review of the records, I find that the information that has been withheld on pages 93 and 94 of the records under section 14(1)(l) consists of access/transmission

¹⁵ Orders MO-2363 and PO-2435.

¹⁶ *Merck Frosst Canada Ltd. v. Canada (Health)*, [2012] 1 S.C.R. 23.

¹⁷ *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.

¹⁸ See, for example, Order PO-2970.

codes and query information. Therefore, I find that this information falls within the scope of section 14(1)(l) of the *Act*.

[42] The other pages which the ministry indicates are exempt under section 14(1)(l) do not contain access/transmission codes and query information or, in my view, the type of information that is protected by the section 14(1)(l) exemption. Furthermore, the ministry has not otherwise provided sufficient evidence to establish that disclosing that the withheld information on pages 57, 58, 226, 236, 244, 263 and 317 could reasonably be expected to facilitate the commission of an unlawful act or hamper the control of crime.

[43] Accordingly, I find that section 14(1)(l) does not apply to the withheld information on pages 57, 58, 226, 236, 244, 263 and 317.

[44] I will consider whether disclosure of the withheld information in pages 57, 58, 236, and 244 would be an unjustified invasion of an identifiable individual's personal privacy under section 21(1) of the *Act*, below. As no other exemptions were claimed to apply to pages 226, 263 and 317, I will order the ministry to disclose the responsive information on those pages to the appellant.

Exercise of Discretion

[45] I found above that section 14(1)(l) applies to withheld information on pages 93 and 94. Section 14(1)(l) is a discretionary exemption (the ministry "may" refuse to disclose), meaning that the ministry can decide to disclose information even if the information qualifies for exemption. Therefore, I must determine if the ministry properly exercised its discretion in withholding the information under section 14(1)(l).

[46] An institution must exercise its discretion. On appeal, the IPC may determine whether the institution failed to do so.

[47] In addition, the IPC may find that the institution erred in exercising its discretion where, for example,

- it does so in bad faith or for an improper purpose;
- it takes into account irrelevant considerations; or
- it fails to take into account relevant considerations.

[48] In either case, the IPC may send the matter back to the institution for an exercise of discretion based on proper considerations.¹⁹ The IPC cannot, however, substitute its own discretion for that of the institution.²⁰

[49] The ministry submits that in withholding CPIC information on pages 93 and 94

¹⁹ Order MO-1573.

²⁰ Section 54(2).

under section 14(1)(l), the ministry acted in accordance with its usual practices to withhold information which, if disclosed, would reveal the operation of the CPIC system.

[50] The appellant challenges the ministry's decision to withhold information under section 14(1)(l). His representations in general focus on the age of the information and the public's interest in this information to solve cases. The appellant submits that many of these types of cases are solved through public involvement and discussion.

[51] I am satisfied overall that the ministry properly exercised its discretion to withhold information from pages 93 and 94 under the discretionary law enforcement exemption at section 14(1)(l). The ministry's exercise of discretion was in keeping with its usual practices in withholding law enforcement records which would reveal the operation of the CPIC system. The ministry was also aware of the appellant's reasons for seeking access to the information set out in his request. I am also satisfied that the ministry considered the appellant's position on the public interest in the disclosure of the information and the appellant's view of the value of the disclosure of the information in solving cases. In all the circumstances and for the reasons set out above, I uphold the ministry's exercise of discretion.

[52] Accordingly, I find that only the information that was withheld on pages 93 and 94 qualifies for exemption under section 14(1)(l) of the *Act*.

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

[53] The ministry claims that the mandatory personal privacy exemption at section 21(1) applies to some of the information it has withheld. For section 21(1) to apply, the record must contain "personal information."

[54] Section 2(1) of the *Act* defines "personal information" as "recorded information about an identifiable individual." Recorded information is information recorded in any format, such as paper records, electronic records, digital photographs, videos, or maps.²¹ Information is "about" an "identifiable individual" when it refers to the individual in a personal capacity, revealing something of a personal nature about them, and it is reasonable to expect that the individual can be identified from the information alone or combined with other information.²²

[55] Section 2(1) of the *Act* gives a list of examples of personal information:

"personal information" means recorded information about an identifiable individual, including,

²¹ See the definition of "record" in section 2(1).

²² Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.).

- (a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual,
- (b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,
- (c) any identifying number, symbol or other particular assigned to the individual,
- (d) the address, telephone number, fingerprints or blood type of the individual,
- (e) the personal opinions or views of the individual except if they relate to another individual,
- (f) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence,
- (g) the views or opinions of another individual about the individual, and
- (h) the individual's name if it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual.

[56] The list of examples of personal information under section 2(1) is not a complete list. This means that other kinds of information could also be "personal information."²³

[57] Section 2(2) states that personal information does not include information about an individual who has been dead for more than thirty years.

[58] Generally, information about an individual in their professional, official or business capacity is not considered to be "about" the individual.²⁴ See also sections 2(3) and 2(4) of the *Act*, which state:

- (3) 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.

²³ Order 11.

²⁴ Orders P-257, P-427, P-1412, P-1621, R-980015, MO-1550-F and PO-2225.

(4) For greater certainty, subsection (3) applies even if an individual carries out business, professional or official responsibilities from their dwelling and the contact information for the individual relates to that dwelling.

[59] In some situations, 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.²⁵

The parties’ representations

[60] The ministry explains that the responsive records consist of historic investigative records and recent records. It submits that the historic records are either OPP reports or correspondence related to the OPP investigations and the recent records consist of OPP reports, officers’ notes, emails, and in some instances, letter correspondence.

[61] The ministry submits that all the records contain personal information, including names, addresses, telephone numbers of identifiable individuals, observations by the OPP of identifiable individuals, personal exchanges, or statements or other information that the OPP collected in the course of its investigations. The ministry submits that this personal information belongs to witnesses, potential suspects, family members and other individuals who interacted or corresponded with or within the OPP about the relevant missing persons’ investigations.

[62] The ministry submits that the remaining withheld information is personal information and not information about any individual who has been dead for more than thirty years that would be subject to the exception at section 2(2) of the *Act*.

[63] The appellant submits that some of the remaining withheld personal information in the records relates to individuals who have been dead for more than 30 years or to individuals, he argues, should be presumed to be dead. In his representations he provides submissions about the death of various individuals. Those reference two individuals who the ministry accepted would be dead for more than 30 years as well as two individuals who he asserts are mentioned in records responsive to request 1. He admits that he can’t confirm the spelling of one of the second two individual’s last name and asserts that the ministry should work with him to identify the proper spelling of that individual’s name.

[64] Finally, he takes the position that section 2(3) would apply to the name of another individual who he asserts is mentioned in records responsive to request 1 because that individual’s name appears in a professional, rather than personal capacity.

Analysis and finding

[65] I have reviewed all the records at issue and find that, subject to the exceptions I set out below, the records remaining at issue contain the personal information of

²⁵ Orders P-1409, R-980015, PO-2225 and MO-2344.

identifiable individuals other than the appellant. This personal information consists of these individuals' names, together with their birth dates and addresses along with information about their relationship(s) with a missing or deceased person or their family and/or their involvement in the incidents under investigation whether as a witness or perhaps suspect in a criminal investigation. I also find that although some information relating to identifiable individuals was provided in a professional capacity it also qualifies as personal information because it reveals that they were witnesses in the incidents under investigation, or in the case of OPP staff sharing information in a professional context²⁶, would reveal something of a personal nature about them.

[66] As a result, subject to the exceptions I list below, I find that all of the records at issue contain the personal information of identifiable individuals other than the appellant that falls within the scope of the definition of personal information at section 2(1) of the *Act*. I also find that I have not been provided with sufficient evidence to conclude that any of the records contain information that relates to an individual who has been dead for more than thirty years, other than those that the ministry has already identified as falling within the scope of section 2(2).

[67] That said, the withheld information on pages 254, 255, 256, 257, 258, 259, 260, 274, 275, 276, 277, 278 279, 280 and 281 consists of information²⁷ that relates to information about remains that have been identified as well as unidentified remains. In my view, the information relating to unidentified remains by its nature does not relate to an identifiable individual.²⁸ Accordingly, this information, which I have highlighted on a copy of those pages that I have provided to the ministry along with a copy of this order, does not qualify as personal information and I will order the ministry to disclose it to the appellant.

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

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

[69] 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 few exceptions.

[70] The section 21(1)(a) to (e) exceptions are relatively straightforward. If any of the five exceptions covered in sections 21(1)(a) to (e) exist, the institution must disclose the

²⁶ This withheld information appears on pages 300, 301, 303, 304, 306, 307, 309, 310, 328, 329, 332, 334, 338, 339, 342 and 345.

²⁷ A file number and discovery date.

²⁸ Furthermore, any remains that have been identified over 30 years ago falls within the scope of section 2(2).

information.

[71] The section 21(1)(f) exception is more complicated. It permits the institution to disclose another individual's personal information to a requester only if this would not be an "unjustified invasion of personal privacy." Other parts of section 21 must be looked at to decide whether disclosure of the other individual's personal information would be an unjustified invasion of personal privacy.

[72] Sections 21(2), (3) and (4) help in deciding whether disclosure would or would not be an unjustified invasion of personal privacy.

[73] Sections 21(3)(a) to (h) should generally be considered first.²⁹ These sections outline several situations in which disclosing personal information is presumed to be an unjustified invasion of personal privacy.

[74] If one of these presumptions applies, the personal information cannot be disclosed unless:

- there is a reason under section 21(4) that disclosure of the information would not be an "unjustified invasion of personal privacy," or
- there is a "compelling public interest" under section 23 that means the information should nonetheless be disclosed (the "public interest override").³⁰

[75] If the personal information being requested does not fit within any of the presumptions under section 21(3), one must next consider the factors set out in section 21(2) to determine whether disclosure would be an unjustified invasion of personal privacy. If any of the situations in section 21(4) is present, then section 21(2) need not be considered. None of the situations in section 21(4) have been claimed and none of them appear to apply in the circumstances of this appeal.

[76] In this appeal the ministry claims that the factor favouring non-disclosure at section 21(2)(f) and the presumption at section 21(3)(b) apply. Those sections read:

21(2) 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,

(f) the personal information is highly sensitive[.]

21(3) A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy where the personal information,

²⁹ If any of the section 21(3) presumptions are found to apply, they cannot be rebutted by the factors in section 21(2) for the purposes of deciding whether the section 21(1) exemption has been established.

³⁰ *John Doe v. Ontario (Information and Privacy Commissioner)* (1993), 13 O.R. (3d) 767 (Div.Ct.).

(b) was compiled and is identifiable as part of an investigation into a possible violation of law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation[.]

The parties' representations

[77] The ministry claims that the section 21(3)(b) presumption applies because the personal information in the records was created or collected by the OPP as a result of law enforcement investigations into the disappearances or deaths of individuals, which could result in criminal charges being laid. The ministry submits that even if no criminal proceedings were commenced section 21(3)(b) may still apply.

[78] The ministry submits that:

[...] there clearly are ongoing law enforcement investigations into the disappearances of these individuals, we continue to receive tips and similar evidence in support of the investigations, and the investigations are considered open until the whereabouts of the missing person is established.

Due to recent advances in DNA technology, it is becoming increasingly feasible to identify those responsible for crimes that occurred decades ago, and with this technology becoming increasingly used, investigations may be solved decades after crimes occurred. [footnote omitted]

[79] The ministry also submits that the factor favouring non-disclosure at section 21(2)(f) is a relevant consideration in this appeal because the withheld personal information is highly sensitive.

[80] The appellant submits that disclosure of the withheld information would not be an unjustified invasion of any identifiable individual's personal privacy. He submits that he is only interested in historical facts and the story of Ontario's missing citizens and not an unjustified invasion of privacy. He submits that the absence of this information in the historical record relating to individuals who are missing creates confusion and misunderstanding.

[81] The appellant also argues that disclosure of the withheld information would not be an unjustified invasion of any individual's personal privacy because there can be no invasion of privacy when an individual has been dead for more than thirty years and section 2(2) of the *Act* applies.

[82] The appellant submits that his friend submitted a request for the exact information set out in request 4 more than a decade ago. He submits that the ministry disclosed 10 or more pages to that individual than the ministry granted him access to in this appeal. He adds that some of those pages were reproduced in his friend's books.

[83] Finally, the appellant submits that:

The fact that advancements in DNA technology may make it increasingly feasible to identify those responsible for crimes has no bearing on privacy. The DNA will speak for itself and is indifferent to what information has been or will be available to the public in recent or the coming years. The right to a fair trial has expired for any individual since they are dead. The release of records will not change the results of DNA in any way. Furthermore, sticking with this example, the police will publicly identify who the hypothetical DNA belongs to in a press conference almost immediately as they have done in the past. For precedent, see recent case resolution of the Christine Jessop cold case where [named police chief] stated that on Oct. 9, 2020 that through DNA analysis police identified the guilty person who was responsible for Jessop's murder. This individual was named publicly only 5 days after this determination, where it was revealed that the individual had already been dead for 5 years.

[84] The appellant also provides representations regarding section 21(2)(f), however, in light of my determination below, it is not necessary to repeat them here.

Analysis and finding

[85] For the following reasons, I find that the section 21(3)(b) presumption applies to the personal information remaining at issue and, as a result, this information qualifies for exemption under section 21(1) of the *Act*.

[86] The section 21(3)(b) presumption requires only that there be an investigation into a possible violation of law.³¹ So, even if criminal proceedings were never started against the individual, section 21(3)(b) may still apply.³²

[87] Based on my review of the personal information at issue, which is contained in missing person investigative materials, I am satisfied that it was compiled and is identifiable as part of an investigation into a possible violation of law. Although it appears that no criminal charges were laid, that does not end the matter because even if no criminal proceedings were commenced against any individuals, section 21(3)(b) may still apply. The presumption only requires that there be an investigation into a possible violation of law. Therefore, I find that the presumption at section 21(3)(b) applies to the personal information at issue in this appeal, and its disclosure is presumed to be an unjustified invasion of the personal privacy of the individuals to whom the information relates.

[88] As noted above, if any of the section 21(3) presumptions are found to apply, they cannot be rebutted by the factors in section 21(2) for the purposes of deciding whether the section 21(1) exemption has been established. As I have found that section 21(3)(b)

³¹ Orders P-242 and MO-2235.

³² The presumption can also apply to records created as part of a law enforcement investigation where charges were laid but subsequently withdrawn (Orders MO-2213, PO-1849 and PO-2608).

applies to the records it is not necessary for me to consider whether the section 21(2)(f) factor, or any other listed or unlisted factor, might also apply. As a result, I find that the personal information at issue qualifies for exemption under section 21(1) of the *Act*.

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

[89] The appellant's representations referred to there being a compelling public interest in the disclosure of the personal information that the ministry has withheld under section 21(1). For the reasons set out below, I disagree.

[90] Section 23 of the *Act*, the "public interest override," provides for the disclosure of records that would otherwise be exempt under section 21(1) 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.

[91] For section 23 to apply, two requirements must be met:

- there must be a compelling public interest in disclosure of the records; and
- this interest must clearly outweigh the purpose of the exemption.

[92] The *Act* does not state who bears the onus to show that section 23 applies. The IPC will review the records with a view to determining whether there could be a compelling public interest in disclosure that clearly outweighs the purpose of the exemption.³³

[93] The IPC has defined the word "compelling" as "rousing strong interest or attention".³⁴

Compelling public interest

[94] In considering whether there is a "public interest" in disclosure of the record, the first question to ask is whether there is a relationship between the record and the *Act's* central purpose of shedding light on the operations of government.³⁵ In previous orders, the IPC has stated that in order to find a compelling public interest in disclosure, the information in the record must serve the purpose of informing or enlightening the citizenry about the activities of their government or its agencies, adding in some way to the information the public has to make effective use of the means of expressing public

³³ Order P-244.

³⁴ Order P-984.

³⁵ Orders P-984 and PO-2607.

opinion or to make political choices.³⁶

[95] A “public interest” does not exist where the interests being advanced are essentially private in nature.³⁷ However, if a private interest raises issues of more general application, the IPC may find that there is a public interest in disclosure.³⁸

[96] The IPC must also consider any public interest in not disclosing the record.³⁹ A public interest in the non-disclosure of the record may bring the public interest in disclosure below the threshold of “compelling.”⁴⁰

Outweighs the purpose of the exemption

[97] The existence of a compelling public interest is not enough to trigger disclosure under section 23. This interest must also clearly outweigh the purpose of the exemption in the specific circumstances.

[98] An important consideration in balancing a compelling public interest in disclosure against the purpose of the exemption is the extent to which denying access to the information is consistent with the purpose of the exemption.⁴¹

The parties’ representations

[99] The ministry submits that it is not aware of any public interest, let alone a compelling public interest, that would justify overriding the privacy rights of the identifiable individuals’ whose personal information is contained in the records. It submits that the threshold for ordering out personal information under section 23 is high and because the records at issue are largely historic, there is no public interest which would result in the application of section 23.

[100] The appellant takes the position that there is a compelling public interest in the disclosure of the withheld requested information. He submits that because the public has become responsible for solving such long-term missing person cases it should be granted access to police investigations like the ones identified in his request. The appellant submits that a compelling public interest exists specifically in the disclosure of the personal information at issue as it relates to missing persons.

[101] The appellant submits that as a member of the public, he is a manifestation of the public interest. He states that since the public at large cannot be polled, his interest in the records at issue in this appeal and the investigations to which they relate is proof of

³⁶ Orders P-984 and PO-2556.

³⁷ Orders P-12, P-347 and P-1439.

³⁸ Order MO-1564.

³⁹ *Ontario Hydro v. Mitchinson*, [1996] O.J. No. 4636 (Div. Ct.).

⁴⁰ Orders PO-2072-F, PO-2098-R and PO-3197.

⁴¹ Order P-1398, upheld on judicial review in *Ontario v. Higgins*, 1999 CanLII 1104 (ONCA), 118 OAC 108.

the public's interest. He submits:

A "louder" public interest may not appear obvious given the age of the incidents (more than 60 years old), perhaps there would be "louder" public involvement if the police reached out to the public or there was more media attention for older, outstanding cases. I have personally made efforts to publicize and bring lesser known, forgotten cases back into the public eye, without resources or any financial support. My contributions have been received positively by the public showing interest.

Analysis and finding

[102] For the following reasons, I am not satisfied that there is a compelling public interest in the disclosure of the personal information that I have found qualifies for exemption under section 21(1) of the *Act*.

[103] As explained above, for section 23 to apply, two requirements must be met:

- there must be a compelling public interest in disclosure of the records; and
- this interest must clearly outweigh the purpose of the exemption.

Compelling public interest

[104] As explained above, in considering whether there is a "public interest" in disclosure of the withheld personal information in the records, the first question to ask is whether there is a relationship between the record and the *Act's* central purpose of shedding light on the operations of government.⁴²

[105] In my view, the interest identified by the appellant is a private interest that revolves around his interest in publishing information on the disappearance of the individuals identified in his request. Even if it could be established that there is a public interest in the disclosure of the information that remains at issue, I find that the extensive disclosure that the appellant has previously received, in addition to the information that I have ordered disclosed, satisfies any public interest in the incidents. I do not accept that the appellant has demonstrated that the public has an interest in the disclosure of the portions of the records remaining at issue that I have found to be subject to section 21(1). In my view, the disclosure of the remaining withheld information would not serve the purpose of informing or enlightening the citizenry about the activities of their government or its agencies or add 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.

⁴² Orders P-984 and PO-2607.

Outweighs the purpose of the exemption

[106] I also find that even if a compelling public interest in the disclosure of the remaining withheld information were found to exist, this interest would not clearly outweigh the purpose of the personal privacy exemption in section 21(1).

[107] The personal privacy exemption in section 21(1) protects the personal information of individuals held by public institutions, which is one of the two central purposes of the *Act*. The withheld personal information includes individuals' given and family names and other information about them, including their association with police investigations into missing individuals. I found that the disclosure of this information is presumed to result in an unjustified invasion of personal privacy. In my view, the appellant's rationale for requesting this information, namely for the purposes of writing a book, does not establish any compelling public interest that clearly outweighs the purpose of the mandatory personal privacy exemption in section 21(1) to protect the personal information of individuals held by public institutions.

[108] Accordingly, I find that section 23 does not apply in the circumstances of this appeal.

Issue F: Can any of the records reasonably be severed under subsection 10(2) of the *Act*, without disclosing the information that falls under sections 14(1)(l) or 21(1)?

[109] The appellant asked that whole pages or records not be withheld simply because some discrete amounts of exempt information appear on them. This raises the issue as to whether records can be severed under section 10(2) of the *Act*.

[110] Section 10(2) of the *Act* obliges the ministry to disclose as much of any responsive record as can be reasonably severed without disclosing information which is exempt. Further, severance will not be considered reasonable where an individual could ascertain the content of the withheld information from the information disclosed. Finally, an institution is not required to sever the record and disclose portions where to do so would reveal only "disconnected snippets", or "worthless" or "meaningless" information.⁴³

[111] In my view, the records cannot be further severed without disclosing information that I have found to be exempt. Furthermore, an institution is not required to sever the record and disclose portions where to do so would reveal only "disconnected snippets", or "worthless" or "meaningless" information, which any other severance would result in here.

[112] Accordingly, I find that none of the records can reasonably be severed under section 10(2) of the *Act* without disclosing information that I have found qualifies for

⁴³ Order PO-1663, *Ontario (Minister of Finance) v. Ontario (Information and Privacy Commissioner)* (1997), 102 O.A.C. 71 (Div. Ct.).

exemption under section 14(1)(l) or 21(1).

ORDER:

1. I uphold the reasonableness of the ministry's search for records responsive to requests 1 and 3.
2. I order the ministry to disclose to the appellant the responsive information on pages 226, 263 and 317 as well as the information that I have highlighted in green on a copy of pages 254, 255, 256, 257, 258, 259, 260, 274, 275, 276, 277, 278, 279, 280 and 281 of the records that I have provided to the ministry together with this order by sending it to him by **October 27, 2025**, but not before **October 20, 2025**.
3. In order to ensure compliance with paragraph 2, I reserve the right to require the ministry to send me a copy of the pages of records as disclosed to the appellant.
4. In all other respects I uphold the ministry's decision.

Original Signed by: _____

Steven Faughnan
Adjudicator

September 18, 2025