

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER MO-4696

Appeal MA23-00068

Halton Regional Police Services Board

September 19, 2025

Summary: An individual made a request under the *Municipal Freedom of Information and Protection of Privacy Act* to the Halton Regional Police Services Board for access to three specified police occurrence reports. The police issued a decision granting partial access to the reports withholding information under the discretionary personal privacy exemption (section 38(b)) of the *Act*.

In this order, the adjudicator finds that disclosure of the withheld information would be an unjustified invasion of an identifiable individual's personal privacy under section 38(b). She upholds the police's decision to withhold that information 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(2)(f), 14(3)(b), and 38(b).

OVERVIEW:

[1] The Halton Regional Police Services Board (the police) received an access request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for three specified police occurrence reports.

[2] The police issued a decision granting partial access to the requested reports. Access to the withheld information was denied under sections 38(b) (personal privacy) and 38(a) (discretion to refuse requester's own information), read with several law enforcement exemptions.¹

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

[4] During mediation, the appellant confirmed that he was not pursuing access to the police codes, patrol zone information, and statistical codes but he was pursuing access to the remainder of the withheld information. Accordingly, only section 38(b) remains at issue in this appeal.

[5] As a mediated resolution was not possible, the appeal was transferred to the adjudication stage, where an adjudicator may conduct an inquiry under the *Act*. I conducted an inquiry in which I sought and received representations from the parties about the issues in the appeal.²

[6] In this order, I find that the discretionary section 38(b) personal privacy exemption applies to the withheld information in the three occurrence reports because disclosure of that information would be an unjustified invasion of the personal privacy of identifiable individuals. I uphold the police's decision not to disclose it.

RECORDS:

[7] The information at issue in this appeal consists of the withheld portions of three specified police occurrence reports (occurrence reports).

ISSUES:

- A. Do the occurrence reports contain "personal information" as defined in section 2(1) and, if so, whose personal information is it?
- B. Does the discretionary personal privacy exemption at section 38(b) apply to the information at issue?

¹ Sections 8(1)(e) (endanger life or safety) and 8(1)(l) (facilitate commission of an unlawful act).

² Portions of the parties' representations were withheld in accordance with the confidentiality criteria in IPC Practice Direction 7 and section 7 of the IPC's *Code of Procedure*.

DISCUSSION:

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

[8] The police claim that the discretionary personal privacy exemption at section 38(b) applies to the withheld information in the occurrence reports. For this section to apply, the IPC must first determine that the record contains “personal information,” and if so, to whom the personal information relates. It is important to know whose personal information is in the record. If the record contains the requester’s own personal information, their access rights are greater than if it does not.³ Also, if the record contains the personal information of other individuals, one of the personal privacy exemptions might apply.⁴

[9] Section 2(1) of the *Act* gives a list of examples of personal information.⁵ Section 2(2) states: “Personal information does not include information about an individual who has been dead for more than thirty years.”

[10] To qualify as personal information, it must be reasonable to expect that an individual may be identified if the information is disclosed.⁶

Representations, analysis and findings

[11] The parties do not dispute, and I find, that the occurrence reports contain the personal information of the appellant and other identifiable individuals, including his daughter.

[12] After considering the representations of the parties and reviewing the occurrence reports, I find that the information in the occurrence reports qualifies as personal information pursuant to paragraphs (a), (b), (d), (e), (g), and (h) of the definition in section 2(1) of the *Act*. Specifically, I find that the occurrence reports contain the age, sex, medical and criminal history, address, telephone number, and the views or opinions of the appellant and other identifiable individuals, and views and opinions about them.

[13] As the occurrence reports contain the personal information of the appellant and other individuals, I will consider the appellant’s access to the withheld information under Part III of the *Act*, specifically the discretionary exemption at section 38(b).

³ Under sections 47(1) and 49 of the *Act*, a requester has a right of access to their own personal information, and any exemptions from that right are discretionary, meaning that the institution can still choose to disclose the information even if the exemption applies.

⁴ Sections 21(1) and 49(b), as discussed below.

⁵ 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.”

⁶ Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.).

Issue B: Does the discretionary personal privacy exemption at section 38(b) apply to the information at issue?

[14] The police submit that disclosure of the withheld personal information in the occurrence reports would be an unjustified invasion of the personal privacy of the identifiable individuals, while the appellant submits that it would not.

[15] Section 36(1) of the *Act* gives individuals a general right of access to their own personal information held by an institution. Section 38 provides some exemptions from this right.

[16] Under the section 38(b) exemption, if a record contains the personal information of both the requester and another individual, the institution may refuse to disclose the other individual's personal information to the requester if disclosing that information would be an "unjustified invasion" of the other individual's personal privacy.

[17] The section 38(b) exemption is discretionary. This means that the institution can decide to disclose another individual's personal information to a requester even if doing so would result in an unjustified invasion of the other individual's personal privacy.

[18] If disclosing another individual's personal information would not be an unjustified invasion of personal privacy, then the information is not exempt under section 38(b).

[19] Sections 14(1) to (4) provide guidance in deciding whether disclosure would be an unjustified invasion of another individual's personal privacy. If any of the section 14(1)(a) to (e) exceptions apply, disclosure would not be an unjustified invasion of personal privacy, and the information is not exempt from disclosure under section 38(b). Similarly, if any of the situations in section 14(4) apply, disclosure would not be an unjustified invasion of personal privacy under 38(b).

[20] Sections 14(2) and (3) also help in deciding whether disclosure would or would not be an unjustified invasion of personal privacy under section 38(b). If any of sections 14(3)(a) to (h) apply, disclosure of the information is presumed to be an unjustified invasion of personal privacy under section 38(b). Section 14(2) lists various factors that may be relevant in determining whether disclosure of personal information would constitute an unjustified invasion of personal privacy.⁷ The list of factors is not exhaustive. The institution must also consider circumstances that are relevant, even if they are not listed under section 14(2).⁸

[21] In deciding whether the disclosure of the personal information in the records would be an unjustified invasion of personal privacy under section 38(b), I must consider and weigh the factors and presumptions in sections 14(2) and (3) and balance the interests of the parties.⁹

⁷ Order P-239.

⁸ Order P-99.

⁹ Order MO-2954.

Representations, analysis and findings

[22] The police argue that disclosure of the withheld portions of the occurrence reports would be an unjustified invasion of the personal privacy of the identifiable individuals, other than the appellant, whose personal information is contained in those reports.

[23] The appellant submits that disclosure of the withheld personal information would not be an unjustified invasion of personal privacy because he is aware of what occurred. The appellant submits that he does not want the details of the incident, just the record that it occurred.

[24] The appellant submits that the exception in section 14(1)(b) applies to the withheld information in the occurrence reports.

Section 14(1)(b) exception: compelling circumstances affecting health or safety

[25] The appellant submits that section 14(1)(b) applies because he requires the information at issue to protect the safety of a child. Previous IPC orders have held that in order to meet the “compelling” circumstances threshold, the purpose of seeking the personal information at issue must be a matter of “immediate and essential health or safety”.¹⁰ Given that the records are occurrence reports for incidents that occurred years ago, I am not satisfied based on the circumstances of this appeal that the personal information at issue is a matter of immediate and essential health or safety. Therefore, I find that the “compelling” threshold has not been met, and the section 14(1)(b) exception does not apply to the personal information at issue in this appeal.

[26] Neither party has argued that any of the other exceptions in section 14(1) apply to the withheld information, and I find that none apply in the circumstances of this appeal. The parties also did not argue that any of the section 14(4) exceptions apply, and from my own review, I find that none of them apply in the circumstances of this appeal.

[27] Since I have found that none of the paragraphs in sections 14(1) and 14(4) apply, I must consider and weigh any section 14(2) factors and section 14(3) presumptions that may apply.

Section 14(3)(b) presumption: investigation into a possible violation of law

[28] The police argue that the section 14(3)(b) presumption applies to the personal information in the occurrence reports because it was compiled and is identifiable as part of three separate investigations into possible violations of law, which could have resulted in criminal charges.

[29] Section 14(3)(b) states:

A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy if the personal information, was compiled and is

¹⁰ Orders MO-3247, MO-2677, and PO-2541.

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[.]

[30] Based on my review of the personal information in the occurrence reports, I am satisfied that it was compiled and is identifiable as part of investigations into possible violations of law. The personal information at issue is contained in police occurrence reports and relates to incidents investigated by the police. Even if no criminal proceedings were commenced against an individual, section 14(3)(b) may still apply. The presumption only requires that there be an investigation into a possible violation of law.¹¹ I am satisfied that the three occurrence reports at issue relate to investigations conducted by the police. Therefore, I find that the personal information in the occurrence reports is subject to section 14(3)(b), and its disclosure is presumed to be an unjustified invasion of the personal privacy of the identifiable individuals.

[31] Under section 38(b), the presumptions in section 14(3) must be weighed and balanced with any factors in section 14(2) that are relevant.

[32] The appellant argues that the factors at sections 14(2)(b) (public health and safety) and 14(2)(d) (fair determination of rights) apply to the withheld information. These factors weigh in favour of disclosure, if they are found to apply.

[33] The police argue that the factor at section 14(2)(f) (highly sensitive) applies to the withheld information. This factor weighs against disclosure, if it is found to apply.

[34] Sections 14(2)(b), (d), and (f) state:

14(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,

- (b) access to the personal information may promote public health and safety;
- (d) the personal information is relevant to a fair determination of rights affecting the person who made the request;
- (f) the personal information is highly sensitive;

Section 14(2)(b): public health and safety

[35] The appellant submits that the factor at section 14(2)(b) (public health and safety) applies because disclosure of the withheld personal information would assist him in protecting a child.

¹¹ Orders P-242 and MO-2235.

[36] Section 14(2)(b) is a factor favouring disclosure if disclosure may protect public health and safety. Previous IPC orders have held that this factor applies in favour of disclosure of personal information in contexts such as the name of a dog owner, whose dog bites or attacks another person, because it may promote public health and safety.¹² However, in the circumstances of this appeal, I find that disclosure of the withheld personal information would not promote public health and safety as contemplated by section 14(2)(b) of the *Act*.¹³

[37] The appellant has not provided sufficient evidence to demonstrate that disclosure of the withheld information would assist him in protecting a child. As noted above, the occurrence reports are related to incidents that occurred years ago. Based on my review of his representations, I am not persuaded that the appellant has established how disclosure of the personal information would specifically promote *public* health and safety.

[38] Accordingly, I find that the factor at section 14(2)(b) is not a relevant factor weighing in favour of the disclosure of the withheld personal information in the occurrence reports.

Section 14(2)(d): fair determination of rights

[39] The appellant also submits that the factor at section 14(2)(d) (fair determination of rights) applies because a proceeding could be brought for the custody of a child.

[40] For the factor at section 14(2)(d) to apply in favour of disclosure, the appellant must establish all four parts of the following test:

1. the right in question is a legal right which is drawn from the concepts of common law or statute law, as opposed to a non-legal right based solely on moral or ethical grounds; and
2. the right is related to a proceeding which is either existing or contemplated, not one which has already been completed; and
3. the personal information which the appellant is seeking access to has some bearing on or is significant to the determination of the right in question; and
4. the personal information is required in order to prepare for the proceeding or to ensure an impartial hearing.¹⁴

[41] Based on the evidence before me, I am not persuaded by the appellant's representations that section 14(2)(d) applies to the personal information at issue in this

¹² Orders MO-2980, MO-3370, and MO-3383.

¹³ Order MO-1664.

¹⁴ Order PO-1764; see also Order P-312, upheld on judicial review in *Ontario (Minister of Government Services) v. Ontario (Information and Privacy Commissioner)* (February 11, 1994), Toronto Doc. 839329 (Ont. Div. Ct.).

appeal.

[42] The information in the occurrence reports contains primarily the personal information of the identifiable individuals involved in the investigations. The appellant has not explained or provided evidence to demonstrate that the personal information is required in order to prepare for an existing or contemplated proceeding or is required to ensure an impartial hearing. Given this, it is unclear from the appellant's representations how disclosure of the personal information is required for the fair determination of his rights for the purpose of part four of the test in section 14(2)(d) of the *Act*.

[43] I also note that the police's withholding of the personal information at issue in this appeal does not prevent the appellant from pursuing other legal remedies that might be available to him with respect to his custody proceeding.¹⁵

[44] Therefore, I find that the appellant has not provided sufficient evidence to establish the application of the fourth part of the test. For section 14(2)(d) to apply, all four parts of the test must be established. Since the appellant has not persuaded me that all four parts of the section 14(2)(d) test have been met, I find that section 14(2)(d) does not apply to weigh in favour of the disclosure of the withheld personal information in this appeal.

Section 14(2)(f): highly sensitive

[45] The police argue that the section 14(2)(f) (highly sensitive) factor applies to weigh against disclosure of the withheld personal information in this appeal. In order for section 14(2)(f) to apply, the personal information at issue must be considered to be highly sensitive, which means there must be a reasonable expectation of significant personal distress if the information were disclosed.¹⁶

[46] The police argue that the withheld personal information in the occurrence reports is highly sensitive because the occurrence reports relate to *Mental Health Act* (*MHA*) calls, and generally, there is a negative perception when an individual is involved with law enforcement.

[47] The appellant submits that the factor at section 14(2)(f) (highly sensitive) does not apply because anything sensitive said about him can be redacted.

[48] Given that the withheld information contains the personal information of identifiable individuals related to *MHA* calls, I find that its disclosure to the appellant could reasonably be expected to cause significant personal distress to the individuals to whom the personal information relates. Therefore, I find that section 14(2)(f) applies in this appeal and weighs against disclosure of the withheld personal information in the occurrence reports.

¹⁵ Section 51(1) of the *Act* provides that "This *Act* does not impose any limitation on the information otherwise available by law to a party to litigation."

¹⁶ Orders PO-2518, PO-2617, MO-2262 and MO-2344.

[49] I also considered whether any other unlisted factors favouring disclosure, such as inherent fairness issues, apply, and I find that none apply in the circumstances of this appeal.

[50] Overall, I have found that no section 14(2) factors weigh in favour of disclosure and that the section 14(2)(f) factor weighs against disclosure. I have also found that the section 14(3)(b) presumption against disclosure applies to the withheld personal information. Balancing the interests of the parties, the facts of this appeal weigh against disclosure of the withheld personal information in the occurrence reports. Therefore, I find that the withheld personal information is exempt from disclosure under section 38(b) of the *Act*.

Absurd result

[51] The appellant submits that the “absurd result” principle applies to the withheld personal information because he was present during the incident, and he is aware of what happened and what was discussed. The appellant submits that he is not interested in anything specifically said about him and those statements can be redacted.

[52] The police submit that the absurd result principle does not apply.

[53] The absurd result principle may apply where the appellant originally supplied the information at issue or is otherwise aware of it. Where circumstances are present, the information may not be exempt under section 38(b) because withholding the information might be absurd and inconsistent with the purpose of the exemption.¹⁷

[54] For example, the “absurd result” principle has been applied when:

- the requester sought access to their own witness statement,¹⁸
- the requester was present when the information was provided to the institution,¹⁹ and
- the information was or is clearly within the requester’s knowledge.²⁰

[55] However, if disclosure is inconsistent with the purpose of the exemption, the absurd result principle may not apply.²¹

[56] Based on my review of the occurrence reports, I find that the absurd result principle does not apply. While the appellant may be aware of who the individuals in the occurrence reports are, he has not demonstrated that the rest of the personal information contained in the occurrence reports, especially their statements to the police, are within

¹⁷ Orders M-444 and MO-1323.

¹⁸ Orders M-444 and M-451.

¹⁹ Orders M-444 and P-1414.

²⁰ Orders MO-1196, PO-1679 and MO-1755.

²¹ Orders M-757, MO-1323 and MO-1378.

his knowledge. Furthermore, previous IPC orders have held that, if disclosure is inconsistent with the purpose of the exemption, the absurd result principle may not apply, even if the information was supplied by the requester or is otherwise known to the requester.²²

[57] Given that the personal information at issue appears in police occurrence reports, and my finding that disclosure of that personal information would be an unjustified invasion of personal privacy of the individuals to whom the personal information relates, I find that disclosure under the absurd result principle would be inconsistent with the purpose of the section 38(b) exemption. Therefore, based on the circumstances of this appeal, I find it would not be absurd or inconsistent with the purpose of the section 38(b) exemption to withhold the personal information contained in the occurrence reports.

Section 38(b) conclusion

[58] Since withholding the withheld personal information in the occurrence reports would not be absurd, I find that the withheld personal information is exempt from disclosure under the discretionary exemption at section 38(b) of the *Act*.

Exercise of discretion

[59] The section 38(b) exemption is discretionary, meaning that the police can decide to disclose information even if the information qualifies for exemption. The police must exercise their discretion. On appeal, I may determine whether the police failed to do so.

[60] The police state that they properly exercised their discretion under section 38(b). They state that they took into consideration relevant factors, including that the withheld information contains both the personal information of the appellant and the other identifiable individuals.

[61] The appellant submits that the police did not properly exercise their discretion because they did not take into consideration that he has a compelling need to receive the information.

[62] After considering the parties' representations and the circumstances of this appeal, I find that the police did not err in their exercise of discretion with respect to their decision to deny access to the withheld personal information under section 38(b) of the *Act*. I am satisfied that the police considered relevant factors and did not consider irrelevant factors in their exercise of discretion. In particular, it is evident that the police considered the fact that the withheld information contains the appellant's own personal information and balanced it with the privacy rights of the other individuals.

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

²² Orders M-757, MO-1323 and MO-1378.

ORDER:

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

Original Signed By: _____
Anna Truong
Adjudicator

September 19, 2025