

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER PO-4737

Appeal PA23-00282

Ministry of the Solicitor General

September 29, 2025

Summary: An individual who was bitten by a dog requested records related to the dog bite incident from the Ministry of the Solicitor General. The ministry provided her with a summary report and a general report containing some information but did not provide her with the remaining information stating that disclosure would constitute an unjustified invasion of other individuals' personal privacy (section 49(b)).

In this order, the adjudicator allows the appeal, in part. She finds that the dog sitter's name and address are exempt under section 49(b) of the *Act*, but that the dog owner's name and address are not. She orders the ministry to disclose the dog owner's name and address to the appellant.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended, section 2(1) (definition of "personal information"), 21(2)(b), 21(2)(d), and 21(2)(f), 21(3)(b) and 49(b); *Dog Owners' Liability Act*, R.S.O. 1990, c. D.16, as amended.

Orders Considered: Orders P-666 and MO-4358.

OVERVIEW:

[1] An individual who was bitten by a dog made a request, under the *Freedom of Information and Protection of Privacy Act* (the *Act*), to the Ministry of Solicitor General (the ministry), for access to a specified Ontario Provincial Police (OPP) report and the health unit report.

[2] The ministry granted partial access to a 1-page summary report and a 2-page

general report with severances made pursuant to the discretionary personal privacy exemption at section 49(b) of the *Act*.¹

[3] Dissatisfied with the ministry's decision, the appellant appealed the ministry's decision to the Office of the Information and Privacy Commissioner of Ontario (the IPC). A mediator was assigned to explore the possibility of resolution.

[4] During mediation, the mediator notified an affected party (the dog owner) and attempted to obtain their consent to disclose the information relating to them but was unable to obtain their consent.

[5] The appellant advised that she is pursuing access to the portions of the withheld information specifying the legal names and addresses of two affected parties (the dog owner and the dog sitter).²

[6] As a mediated resolution was not reached, the appeal was transferred to the adjudication stage, where an adjudicator may conduct an inquiry under the *Act*. I commenced an inquiry in which I sought and received representations from the parties about the issues in the appeal.³

[7] In this order, I allow the appeal, in part. I find that the dog sitter's name and address are exempt under section 49(b) of the *Act*, but that the dog owner's name and address are not. I order the ministry to disclose the dog owner's name and address to the appellant.

RECORDS:

[8] The information at issue is the names and addresses of the dog owner and the dog sitter which are contained in a 1-page summary report and a 2-page general report (the records).

¹ Initially, the ministry relied on sections 49(a) and 14(1)(l) but during mediation the appellant confirmed that she is not pursuing access to the severances made pursuant to those sections, nor the portions of the withheld information that is not responsive to the request.

² I note that the ministry identified that it is withholding the Workplace Identification Numbers (WIN) belonging to Computer Assisted Dispatch operators (CAD) listed on pages 1 and 2 of the general report. The appellant has confirmed that she is only interested in pursuing access to the names and address of the affected parties. The WIN information, along with the affected parties' statements, is not at issue in this appeal.

³ The parties' representations were shared in accordance with the confidentiality criteria in the IPC's *Practice Direction Number 7*.

ISSUES:

- A. Do the records contain “personal information” as defined in section 2(1) and, if so, whose information is it?
- B. Does the discretionary personal privacy exemption at section 49(b) 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 information is it?

[9] In order to decide whether section 49(b) applies, I must first decide whether the records contain “personal information,” and if so, to whom this personal information relates.

[10] Section 2(1) of the *Act* defines “personal information” as “recorded information about an identifiable individual.” Recorded information is information recorded in any format, including paper and electronic records.⁴

[11] Information is “about” the individual when it refers to them in their personal capacity, meaning that it reveals something of a personal nature about them. Generally, information about an individual in their professional, official, or business capacity is not considered to be “about” the individual if it does not reveal something of a personal nature about them.⁵

[12] 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.⁶

[13] Section 2(1) of the *Act* gives a list of examples of personal information. Relevant examples to this appeal are set out below:

“personal information” means recorded information about an identifiable individual, including,

⁴ The definition of “records” in section 2(1) includes paper records, electronic records, digital photographs, videos and maps. The record before me is a paper record located by searching a police database.

⁵ Orders P-1409, R-980015, PO-2225 and MO-2344.

⁶ 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,

...

(d) the address, telephone number, fingerprints or blood type of individual,

...

(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.

[14] 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."⁷

[15] It is important to know whose personal information is in the records. If the records contain the requester's own personal information, their access rights are greater than if it does not.⁸ Also, if the records contain the personal information of other individuals, one of the personal privacy exemptions might apply.⁹

[16] The ministry submits that the records contain personal information of identifiable individuals, such as their names, addresses, residential telephone numbers, personal email addresses and their personal statements.

[17] Although the appellant and the affected parties submitted representations, their representations did not address the issue of whether the records contain personal information.

[18] On my review of the records, I find that they contain information that qualifies as the personal information of the appellant and other identifiable individuals, two affected parties. The personal information of the appellant and the affected parties falls under paragraphs (a), (d) and (h) of the definition of "personal information" under section 2(1) of the *Act*. Specifically, it contains the views or opinions of two affected parties, their personal addresses, telephone numbers, email addresses and their name as it appears with other personal information.

⁷ Order 11.

⁸ 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.

⁹ See sections 21(1) and 49(b).

Issue B: Does the discretionary personal privacy exemption at section 49(b) apply to the information at issue?

[19] Under section 49(b), where a record contains personal information of both the requester and another individual, and disclosure of the information would be an “unjustified invasion” of the other individual’s personal privacy, the institution may refuse to disclose that information to the requester. Since the section 49(b) exemption is discretionary, the institution may also decide to disclose the information to the requester.

[20] Sections 21(1) to (4) provide guidance in determining whether disclosure would be an unjustified invasion of personal privacy. If the information fits within any of the exceptions in sections 21(1)(a) to (e), disclosure is not an unjustified invasion of personal privacy and the information is not exempt under section 49(b). Also, section 21(4) lists situations that would not be an unjustified invasion of personal privacy. If any of paragraphs (a) to (d) of section 21(4) apply, disclosure is not an unjustified invasion of personal privacy and the information is not exempt under section 49(b).

[21] Sections 21(2) and (3) help in determining whether disclosure would or would not be an unjustified invasion of personal privacy under section 49(b). If any of sections 21(3)(a) to (h) apply, disclosure of the information is presumed to be an unjustified invasion of personal privacy under section 49(b). Section 21(2) lists various factors that may be relevant in determining whether disclosure of personal information would constitute an unjustified invasion of personal privacy.¹⁰ Some of the factors in section 21(2) weigh in favour of disclosure, while others weigh against disclosure of the withheld personal information. The list of factors under section 21(2) is not exhaustive. The institution must also consider any circumstances that are relevant, even if they are not listed under section 21(2).¹¹

[22] In determining whether the disclosure of the personal information in the records would be an unjustified invasion of personal privacy under section 49(b), this office will consider, and weigh, the factors and presumptions in sections 21(2) and (3) and balance the interests of the parties.¹²

Representations, analysis and findings

[23] Neither of the parties have claimed the withheld personal information fits within the exceptions set out in section 21(1)(a) to (e) or that any of the situations in section 21(4) of the *Act* apply. From my review, I agree that neither section 21(1)(a) to (e) nor section 21(4) is relevant in this appeal. As such, I will consider whether any of the factors or presumptions under sections 21(2) and (3) apply.

[24] The ministry claims that the presumption against disclosure at section 21(3)(b)

¹⁰ Order P-239.

¹¹ Order P-99.

¹² Order MO-2954.

applies. The ministry also submits that the factor at section 21(2)(f) (highly sensitive) applies.

[25] The appellant submits that the factors at section 21(2)(b) (public health or safety) and section 21(2)(d) (fair determination) apply.

[26] Although the affected parties submitted representations, their representations did not address whether any of the presumptions at section 21(3) or the factors at section 21(2) apply. They both object to the disclosure of their personal information.

[27] Based on the parties' representations, I will consider the relevance of the presumption at section 21(3)(b) and the factors at sections 21(2)(b), (d) and (f). They state:

(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 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;

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

(b) was compiled and is identified 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;

Section 21(3)(b) presumption

[28] The ministry submits that the presumption against disclosure at section 21(3)(b) applies as the withheld personal information was collected as part of an investigation being conducted in relation to a possible violation of the *Criminal Code of Canada* (the *Criminal Code*),¹³ specifically causing harm due to criminal negligence, or the *Dog Owners Liability Act (DOLA)* ¹⁴

[29] The appellant submits that the withheld personal information was not compiled and identified as part of an investigation into a possible violation of law. She submits that the records do not refer to the violation of the law that is being investigated and,

¹³ R.S.C., 1985, c. C-46.

¹⁴ R.S.O., c. D.16.

therefore, the presumption at section 21(3)(b) does not apply.

[30] 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.¹⁵ The presumption can also apply to records created as part of a law enforcement investigation where charges are subsequently withdrawn.¹⁶

[31] In Order P-666, the former assistant commissioner found that the ordinary grammatical meaning of compiled is to gather or collect rather than to create at first instance. He also stated the following about investigation:

“... That investigation was, in turn, directed towards determination whether there had been a violation of *The Criminal Code* for which charges could be laid...”

[32] Based on my review of the records, I find that the presumption at section 21(3)(b) applies to the personal information contained in them. The records concern information about a police investigation relating to a possible violation of the *Criminal Code* or *DOLA*. The withheld personal information was compiled and is identifiable as part of an investigation into a possible violation of the *Criminal Code* or *DOLA*. Although no charges were laid, there need only have been an investigation into a possible violation of law for the presumption at section 21(3)(b) to apply.¹⁷

[33] The presumption at section 21(3)(b) does not require the police to name or refer to a violation that is being investigated as the appellant believes is required. It simply requires that there be an investigation into a possible violation of law (which is to be determined). Therefore, I find that section 21(3)(b) applies to weigh against disclosure of the withheld personal information.

Section 21(2) factors

The dog owner's name and address

Section 21(2)(b): public health or safety

[34] The appellant submits that disclosure of the affected parties' names and addresses would promote public safety. She explains that one of the underlying purposes of the civil liability provisions in *DOLA* is to promote public safety by ensuring that dog owners are held accountable if their dog bites or attacks another person. The appellant submits that section 4(3)(b) of *DOLA* gives the court the discretion to order “that the owner of the dog take the measures specified in the order for the most effective control of the dog or for the purposes of public safety.”

¹⁵ Orders P-242 and MO-2235.

¹⁶ Orders MO-2213, PO-1849 and PO-2608.

¹⁷ Orders P-242 and MO-2235.

[35] The appellant also submits that disclosure is necessary as it will make the public at large aware of the responsibilities and obligations in maintaining safe and proper control of their animals so that such attacks are prevented in the future.

[36] The ministry's representations do not address whether the factor at section 14(2)(b) is relevant in the circumstances of this appeal.

[37] I agree that one of the underlying purposes of *DOLA* is to promote public safety by ensuring that dog owners are held accountable if their dog bites or attacks another person. I, therefore, find that disclosing the dog owner's name and address to the appellant in this case may promote public safety under section 21(2)(b) as it may lead to civil proceedings and a possible court order with public safety ramifications. This factor weighs in favour of disclosure.

Section 21(2)(d): fair determination of rights

[38] The appellant claims that the factor at section 21(2)(d) applies. If it does, it weighs in favour of disclosure.

[39] Past IPC orders have referred to section 2(1) of *DOLA*, which states: "The owner of a dog is liable for damages resulting from a bite or attack by the dog on another person or domestic animal."

[40] The IPC has found that for section 21(2)(d) to apply, the appellant must establish that:

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 to which the appellant seeks access 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.¹⁸

[41] The appellant submits that she has met the four-part test in section 21(2)(d). She submits that her right to sue and seek damages from the affected parties is drawn from statutory law (*DOLA*). The appellant submits that the right is related to a contemplated proceeding against the affected parties under *DOLA*. She submits that the personal

¹⁸ Order PO-1764; see also Order P-312, upheld on judicial record in *Ontario (Minister of Government Services) v. Ontario (Information and Privacy Commissioner)* (February 11, 1994), Toronto Doc. 839329 (Ont. Div. Ct.).

information has a bearing to her to sue because she needs to properly identify the affected parties as defendants to commence a legal action under *DOLA*. The appellant finally submits that she needs the affected parties' names and addresses to prepare a Statement of Claim and personally serve under the *Rules of Civil Procedure* under the *Courts of Justice Act*.¹⁹

[42] Turning to the four-part test for section 14(2)(d), I agree with the appellant and the reasoning in past IPC orders,²⁰ and find, that all four parts of the test are met in relation to the dog owner's name and address:

1. the appellant's right to sue is drawn from statutory law (*DOLA*);
2. the appellant's right is related to a contemplated proceeding against the dog owner for damages under *DOLA*;
3. the personal information to which the appellant seeks access (i.e. the dog owner's name and address for service) has a direct bearing on a determination of her right to receive damages because she needs to identify and serve the defendant to bring a successful claim under *DOLA*; and
4. the appellant requires the dog owner's name to prepare for the proceeding under the *DOLA*.

[43] Therefore, I find that the factor at section 14(2)(d) is relevant to the fair determination of the appellant's rights, in relation to the dog owner's name and address. This factor weighs in favour of disclosing the dog owner's name and address to the appellant.

Section 21(2)(f): highly sensitive

[44] The ministry claims the factor at section 21(2)(f) applies to weigh against disclosure because the withheld personal information is highly sensitive. The ministry submits that to be considered highly sensitive, there must be a reasonable expectation of significant personal distress if the information is disclosed. It submits that the affected parties' personal information is contained in the records, which are law enforcement records, and once these records are disclosed they will cease to be subject to any protection from subsequent uses and disclosure.

[45] To support its position, the ministry relies on Order P-1618, where the adjudicator found that the personal information of individuals who are "complainants, witnesses or suspects" as part of their contact with the OPP is "highly sensitive" for the purpose of section 21(2)(f). The ministry submits that disclosure of the withheld personal information will be distressful to the affected parties.

¹⁹ R.S.O. 1990, c. C.43.

²⁰ See, for example, Orders MO-3893 and MO-3911.

[46] The ministry also relies on Order PO-3712, where the adjudicator found that section 21(2)(f) applied where consent had not been provided by affected parties in respect to the disclosure of their personal information combined with the sensitive nature of the personal information contained in the law enforcement investigation records.

[47] The appellant submits that the factor at section 21(2)(f) does not apply. She relies on Order MO-2980, where the adjudicator found that the personal information of the dog owner and witness in the police records was not highly sensitive. He relied on the fact that the police concluded that the dog attack was a matter that should be addressed in a civil law context, not a criminal law context. As well, the adjudicator relied on the fact that the dog owner and the witness were given an opportunity to submit representations but neither chose to do so and express whether disclosure would cause them significant personal distress.

[48] From my review of the records, I accept that given the circumstances of this appeal, disclosure of the withheld personal information would likely cause the dog owner significant personal distress, especially as they have not consented to the disclosure of their personal information. Unlike in MO-2980, the dog owner in this appeal did submit representations in which they stated how disclosure would cause them significant distress. As such, I find that disclosure of the withheld personal information of the dog owner is highly sensitive. As a result, I find that the factor in section 21(2)(f) applies and weighs against disclosure of the withheld personal information. My finding is in keeping with previous orders issued by the IPC, including Orders PO-1618 and PO-3712, relied upon by the ministry.

[49] Although no other factors have been raised by the parties, I have also considered whether any of the other factors in section 21(2) or any unlisted factor are relevant to this appeal. From my review, none of them appear to apply.

The dog sitter's name and address

[50] In Order MO-4358, the adjudicator stated the following about *DOLA*:

Under *DOLA*, an owner who is liable to pay damages under this statute is entitled to recover contribution and indemnity from any other person in proportion to the degree to which the other person's fault or negligence caused or contributed to the damages ...

[51] In effect, the dog sitter may be liable to the dog owner for damage arising out of the dog bite, as the dog sitter may be sued by the dog owner for damages that the dog owner must pay if they are found liable.

[52] I acknowledge that the appellant seeks the name and address of the dog sitter. As the appellant does not need the dog sitter's name and address to pursue her rights under *DOLA*, the factor at section 21(2)(d) does not apply here. I also find that there are no other factors favouring disclosure of the dog sitter's name and address.

[53] Given these findings, it is not necessary to consider whether the factors favouring personal privacy at section 21(2)(f) apply to the dog sitter's name and address.

Balancing the applicable factors and presumptions

The dog owner

[54] I have found that the presumption against disclosure at section 21(3)(b) applies to the dog owner's name and address, which weighs against disclosure.

[55] However, I have also found that the factor at sections 21(2)(b) and 21(2)(d) apply, weighing in favour of disclosure of the dog owner's name and address. In addition, I found that the factor weighing in favour of the protection of personal privacy at section 21(2)(f) do apply to this information.

[56] Weighing the presumption at section 14(3)(b), and the section 14(2) factors discussed, and considering the interests of the parties, I find that disclosing the dog owner's name and address would not be an unjustified invasion of the dog owner's personal privacy. Since I find that this personal information is not exempt under section 49(b) of the *Act*, I will order the ministry to disclose it to the appellant.

The dog sitter

[57] I have found that the presumption at section 21(3)(b) applies to the dog sitter's name and address, and that no factors weighing in favour of disclosing this personal information apply. In the circumstances, and considering the interests of the parties, I find that disclosure of the dog sitter's name and address would be an unjustified invasion of the dog sitter's personal privacy. Therefore, I uphold the ministry's decision to withhold this personal information as exempt under section 49(b) of the *Act*.

[58] The section 49(b) exemption is discretionary (the institution "may" refuse to disclose), meaning that the institution can decide to disclose information even if the information qualifies for exemption. An institution must exercise its discretion. On appeal, the IPC may determine whether the institution failed to do so. In this appeal, there is no dispute that the ministry exercised its discretion to withhold the dog sitter's name and address, and I find that it did.

[59] In exercising its discretion, the ministry states that it considered the following:

- The usual practices of the OPP, which are to protect affected parties' personal information contained in investigative records, out of respect for the heightened sensitivity of such personal information.
- Successive IPC orders, which have upheld the ministry's decision to exempt affected parties' personal information contained in investigative records from disclosure.

- The failure at mediation to obtain the consent of the dog owner's and the fact that the dog sitter was not notified prior to the inquiry.

[60] I accept that the ministry considered relevant considerations such as the purpose of the personal privacy exemption and the fact that the appellant was seeking affected parties' personal information. I also accept that the ministry did not consider irrelevant factors in exercising its discretion, and that it exercised its discretion in good faith, and not for an improper purpose. As a result, I uphold the ministry's exercise of discretion with respect to the dog walker's name and address.

ORDER:

1. I allow the appeal, in part.
2. I order the ministry to disclose the portions of the records containing the dog owner's name and address to the appellant by **November 3, 2025** but not before **October 27, 2025**.
3. I uphold the ministry's decision to withhold the dog sitter's name and address from the appellant.
4. I reserve the right to require the ministry to provide me with a copy of the records disclosed to the appellant in accordance with order provision 2.

Original Signed by: _____

Lan An
Adjudicator

September 29, 2025