

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER PO-4738

Appeal PA23-00636

Ministry of the Solicitor General

October 6, 2025

Summary: An individual made a request for records related to a specified occurrence.

The ministry withheld a 911 call audio recording, claiming that disclosure would be an unjustified invasion of another individual's personal privacy (section 49(b)). The ministry granted partial access to an OPP dispatch audio recording, withholding some information related to law enforcement (section 49(a), read with section 14(1)(l)).

In this order, the adjudicator upholds the ministry's decision not to disclose the withheld information. She finds that disclosure of the 911 call audio recording would be an unjustified invasion of personal privacy and the withheld parts of the OPP dispatch audio relate to a law enforcement matter. She dismisses the appeal.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, sections 2(1) (definition of "personal information"), 14(1)(l), 21(2)(d), 21(2)(e), 21(2)(f), 21(2)(i), 21(3)(b), 49(a), and 49(b).

Orders Considered: Orders PO-4020, PO-4190, MO-3961, PO-4027, PO-3093, PO-2225, P-1618, PO-3712, PO-3013, PO-3742, and MO-3773.

OVERVIEW:

[1] The Ministry of the Solicitor General (the ministry) received a request under the *Freedom of Information and Protection of Privacy Act* (the *Act*) for the following records:

...all OPP [Ontario Provincial Police] Communication including Phone call from the accuser [named individual] that initiated the call regarding [specified occurrence number] on or around March 1, 2023.

[2] The ministry issued a decision granting partial access to an Ontario Provincial Police (OPP) dispatch audio recording and withholding a 911 call audio recording in full.

[3] The ministry withheld the 911 call audio recording under sections 49(a) (discretion to refuse requester's own information), read with section 14(1)(l) (law enforcement matter), and section 49(b) (personal privacy). The ministry withheld the OPP dispatch audio recording in part under section 49(a), read with section 14(1)(l).

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

[5] As mediation did not resolve the appeal it was transferred to the adjudication stage of the appeals process, where an adjudicator may conduct an inquiry. The adjudicator originally assigned to this appeal decided to conduct an inquiry and invited and received representations from the appellant, the ministry and the affected party.¹

[6] The file was assigned to me to continue the adjudication of the appeal. I determined that it was not necessary for me to seek further representations from the parties.

[7] In this order, I uphold the ministry's decision to withhold the 911 call audio recording, in full, under section 49(b), and the OPP dispatch audio recording, in part, under section 49(a), read with section 14(1)(l). I dismiss the appeal.

RECORDS:

[8] The records remaining at issue consist of one OPP dispatch audio recording (the OPP dispatch audio) which was withheld in part, and one 911 call audio recording (the 911 call audio), which was withheld in full.

ISSUES:

- A. Do the records contain "personal information" as defined in section 2(1) and, if so, whose personal information is it?
- B. Does the discretionary personal privacy exemption at section 49(b) apply to the 911 call audio?

¹ The affected party's representations were summarized for the appellant, in accordance with the confidentiality criteria in the IPC's *Code of Procedure*.

- C. Does the discretionary exemption at section 49(a), allowing an institution to refuse access to a requester's own personal information, read with the section 14(1)(l) exemption, apply to portions of the OPP dispatch audio?
- D. Did the institution exercise its discretion under sections 49(b) and 49(a)? If so, should the IPC uphold the exercise of discretion?

DISCUSSION:

[9] I have reviewed the parties' representations, and below I summarize the portions most relevant to the issues before me.

[10] In his representations, the appellant addresses events leading up to his request for information and grievances with a municipality. He also makes new requests for information. Both of these issues are outside of the scope of this appeal. It is not within the IPC's jurisdiction to address the appellant's grievances with a municipality. If the appellant seeks access to the additional information he mentions in his representations, he is to submit a new request under the *Act* to the relevant institution.

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

[11] In order to decide whether sections 49(a) and 49(b) apply, I must first decide whether the records contain "personal information," and if so, to whom that personal information belongs.

[12] 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.²

[13] Information is "about" the individual when it refers to them in their personal capacity, which means that it reveals something of a personal nature about the individual. Generally, information about an individual in their professional, official or business capacity is not considered to be "about" the individual.³ See section 2(3) of the *Act*, which states:

(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.

[14] 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

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

³ Orders P-257, P-427, P-1412, P-1621, R-980015, MO-1550-F and PO-2225.

of a personal nature about the individual.⁴

[15] 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.⁵

[16] Section 2(1) of the *Act* gives a list of examples of personal information. It reads:

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

(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.

[17] The list of examples of personal information under section 2(1) is not a complete

⁴ Orders P-1409, R-980015, PO-2225 and MO-2344.

⁵ Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.).

list. This means that other kinds of information could also be "personal information."⁶

[18] 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.⁷ Also, if the record contains the personal information of other individuals, one of the personal privacy exemptions might apply.⁸

Parties' representations

[19] In their representations, none of the parties addressed whether the OPP dispatch audio contains personal information.

[20] The ministry submits that the 911 call audio contains personal information within the meaning of section 2, namely the affected party's name and voice, and other detailed information provided to the OPP dispatcher, which would reveal the affected party's involvement in relation to the incident.

[21] The ministry submits that section 2(3) does not apply to limit the definition of personal information in this case because even if the information could be said to have been supplied by the affected party in a professional capacity, the nature of the personal information provided is inherently personal, given that it was being used to summon police assistance. The ministry relies on Order PO-3093, in which a 911 call recording made by a municipal employee was found to be their personal information, and therefore was not subject to section 2(3).

[22] With respect to the affected party's voice, the ministry relies on Order PO-4020, which also relates to a 911 call audio. In that order, the IPC stated that the caller's voice can reveal "tone and inflection" and that it could identify the caller.⁹

[23] The ministry submits that it considered the possibility of distorting the affected party's voice. The ministry states that it is aware of IPC orders which ordered the distortion of voices in 911 calls to protect personal information. The ministry submits that as the appellant appears to know the affected party's name and the occurrence number for the incident, distorting the affected party's voice would not serve to protect personal information.

[24] The affected party is the caller in the 911 call audio. They submit that the records contain their personal information including their name, date of birth and phone number. The affected party acknowledges that while some of the information about them in the record may be considered information about them in a professional capacity, the

⁶ Order 11.

⁷ 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.

⁸ See sections 21(1) and 49(b).

⁹ Order PO-4020 at para 24.

information is about them in a personal capacity.

[25] The appellant specifies that he does not require the affected party's personal information, as the affected party's name and voice are known to him. He explains that he seeks access to the 911 call audio because the affected party's tone and inflection, and the content of the 911 call audio are essential in discerning the credibility of the contents of the call.

Analysis and findings

[26] For the reasons below, I find that both the 911 call audio and the OPP dispatch audio contain the appellant's personal information, and that the 911 call audio also contains the affected party's information.

911 call audio

[27] Based on my review of the 911 call audio, I find that it contains the personal information of the appellant and the affected party, in accordance with the definition of the term "personal information" in section 2(1) of the *Act*.

[28] The 911 call audio contains the appellant's name and information relating to him provided to an operator.

[29] The 911 call audio also contains the affected party's name, date of birth and phone number, along with their voice and the information they relayed to the operator during the call.

The affected party's voice

[30] An individual's voice is not enumerated in the list of examples at section 2(1) of the *Act*, however as noted above, the list is not exhaustive. The ministry cites Order PO-4020, in which the adjudicator found that a caller's voice in a 911 call was that caller's personal information under section 2(1):

[24] The 911 audio recording contains the caller's voice but also other related personal information about the caller that the police collected as part of their investigation, such as her name, personal cellphone number, and her views regarding the events she witnessed. The recording also contains her voice, which reveals her tone and inflection. It is reasonable to conclude that she may be identified if the recording were disclosed, even if her name were withheld.¹⁰

[31] I agree with and adopt the approach in Order PO-4020. Accordingly, I accept the ministry's submission that the affected party's voice in the 911 call audio is their personal

¹⁰ The adjudicator in Order PO-4020 references Order MO-3699 at footnote 6 of the order.

information, and that, even if their name and other identifying information are severed, it is reasonable to conclude that they may be identified if the record is disclosed.

[32] I have also considered whether distorting the affected party's voice would ensure that they are unidentifiable. For the reasons below, I agree with the ministry that even if their voice were distorted, the affected party would still be identifiable.

[33] As noted above, "personal information" is defined in section 2(1) as "recorded information about an identifiable individual." In Order PO-4190, the adjudicator concluded that by distorting the caller's voice in a 911 call recording, the caller would not be identifiable to the appellant, and therefore the distorted recording would not contain the caller's personal information.¹¹ The adjudicator canvassed previous orders that addressed whether a 911 caller is likely to be identified by their voice:

[20] In Order MO-3961, the adjudicator considered disclosure of an audio recording of a 911 call about a fatal incident involving the appellant's brother. The adjudicator found that even if other personal identifiers were removed, it would be possible to identify the caller based on their voice. In making this finding, she noted the specific circumstances of that appeal where the appellant not only acknowledged that they had some degree of familiarity with their brother's friends and acquaintances, but also conceded that they may be able to identify the caller. She further found that if the caller is identifiable by their voice, their voice qualifies as their personal information as defined in section 2(1).

[...]

[22] In Order PO-4027, the adjudicator considered the audio recordings of two 911 calls seeking police assistance following a motor vehicle accident, in which neither caller identified themselves [...]. She acknowledged that the calls revealed information about the callers, which could conceivably fit within the definition of personal information.¹² However, she found that, given the context in which the calls were made, it was not reasonable to expect that either caller would be identified if the information were disclosed, as required by the introductory wording of the definition of personal information. In reaching this conclusion, she noted that the accident occurred on a busy 400-series highway where any number of individuals on the highway could have called 911 to request assistance. She also noted that given the size and location of the callers' cities of residence, disclosing the limited personal information that the calls contained could not reasonably result in them being identified. [Emphasis added]

¹¹ Order PO-4190 at para 26.

¹² Footnote 4 of Order PO-4190 reads: For example, their sex (paragraph (a)), the city where they live (paragraph (d)), and their views or opinions regarding the accident (paragraph (e)).

[34] After considering the previous orders, the adjudicator in order PO-4190 found that the circumstances before her could be distinguished from those in Order PO-4027. She stated:

[23] [...] Unlike Order PO-4027, where the 911 callers were not known to the appellant and given the circumstances, any number of individuals could have made the calls, both the ministry and the appellant in this appeal believe that the caller is known to the appellant and that they could be identified by their voice. Given the context and content of the call, I accept that it is reasonable to expect that this might occur were the audio recording disclosed in its current form. Because I accept that it is reasonable to expect the caller may be identified by their voice, I am satisfied that the audio recording of the 911 call contains the “personal information” of the caller for the purposes of the *Act*. [Emphasis added]

[35] The adjudicator in Order PO-4190 noted that in Order MO-3961, the adjudicator concluded that while it might be possible for the appellant to identify the 911 caller based on the circumstances in that appeal, it would not be possible to identify the caller if their voice were distorted. As the circumstances before her were similar, the adjudicator in Order PO-4190 ordered the distortion of the caller’s voice, to ensure that they would not be identifiable to the appellant. She found that with distortion, the 911 call audio would not contain the caller’s personal information.

[36] I agree with the approach taken by the adjudicators in Orders PO-4027, MO-3961 and Order PO-4190. I adopt the approach taken by the adjudicator in Order MO-3961. Based on my review of the parties’ representations and the content of the 911 call audio, the appellant and affected party know each other, and the appellant knows that it was the affected party who placed the 911 call. Unlike in Orders PO-4190 and PO-4027, I am satisfied that the affected party in this case would still be identifiable to the appellant, even if their voice was distorted and their name and identifying information severed. Even with distortion, I find that the 911 call audio would remain recorded information about an identifiable individual and therefore, personal information within the meaning of the definition of that term in section 2(1) of the *Act*.

Professional, official or business capacity

[37] As noted above, generally, information about an individual in their professional, official or business capacity is not considered to be their personal information within the meaning of section 2(1), unless it reveals something of a personal nature about that individual. In this case, the ministry submits that the 911 call audio is the affected party’s personal information, given that it was provided in a call to summon police assistance.

[38] Based on my review of the record and the affected party’s confidential representations, I am satisfied that were the 911 call audio disclosed, it would reveal something of a personal nature about the affected party.

[39] For the reasons set out above, I find that the 911 call audio contains the personal information of both the appellant and the affected party, including their names and other information, as defined in paragraphs (a), (d) and (h) of the definition of “personal information.”

[40] As the 911 call audio contains the personal information of both the appellant and the affected party, I will consider the ministry’s claim that it is exempt under the discretionary personal privacy exemption at section 49(b).

OPP dispatch audio

[41] Although neither the ministry nor the appellant made representations on whether the OPP dispatch audio contains personal information, from my review, I find that it contains the appellant’s personal information given his knowledge of the event that led to its creation, and given that the ministry identified this record as responsive to his request. It does not contain the personal information of any other identifiable individual.

[42] As the OPP dispatch audio contains the appellant’s personal information, I will consider the ministry’s claim that the withheld portions are exempt under section 49(a), read with section 14(1)(l).

Issue B: Does the discretionary personal privacy exemption at section 49(b) apply to the 911 call audio?

[43] The ministry claims that the 911 call audio is exempt under section 49(b). It submits that to disclose this record would constitute an unjustified invasion of the privacy of the affected party, who placed the 911 call to the OPP, and who has not consented to the disclosure of their personal information.

[44] Section 47(1) of the *Act* gives individuals a general right of access to their own personal information held by an institution. Section 49 provides some exemptions from this right.

[45] Under the section 49(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.

[46] The section 49(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 another individual’s personal privacy.¹³

[47] If disclosing another individual’s personal information would not be an unjustified

¹³ See below in the “Exercise of Discretion” section for a more detailed discussion of the institution’s exercise of discretion under section 49(b).

invasion of personal privacy, then the information is not exempt under section 49(b).

[48] I have found above that the 911 call audio contains the personal information of the appellant and the affected party. For the reasons below, I find that the 911 call audio is exempt under section 49(b), because its disclosure would amount to an unjustified invasion of the affected party's personal privacy.

Would disclosure be "an unjustified invasion of personal privacy"?

[49] Sections 21(1) to (4) provide guidance in deciding whether disclosure would be an unjustified invasion of the other individual's personal privacy.

[50] If any of the exceptions in section 21(1)(a) to (e) apply, disclosure would not be an unjustified invasion of personal privacy and the information is not exempt from disclosure under section 49(b). The parties do not raise any of these exceptions in their representations, and I find none apply in the present case.

[51] Sections 21(2), (3) and (4) also help in deciding whether disclosure would or would not be an unjustified invasion of personal privacy under section 49(b). Section 21(4) lists situations where disclosure would **not** be an unjustified invasion of personal privacy, in which case it is not necessary to decide if any of the factors or presumptions in sections 21(2) or (3) apply. The parties do not raise any of the situations described in section 21(4) in their representations, and I find none apply in the circumstances of this appeal.

[52] In deciding whether the disclosure of the personal information in the records would be an unjustified invasion of personal privacy under section 49(b), I must consider and weigh the factors and presumptions in sections 21(2) and (3) and balance the interests of the parties.¹⁴

[53] The ministry claims that the presumption at section 21(3)(b) and the factor at section 21(2)(f) apply and weigh against disclosure. The affected party appears to raise the factor at sections 21(2)(e) and 21(2)(i) apply, weighing against disclosure. The appellant disagrees with the ministry and the affected party, and appears to raise the unlisted factor of inherent fairness, which weighs in favour of disclosure.

Section 21(3) - is disclosure presumed to be an unjustified invasion of personal privacy?

[54] Sections 21(3)(a) to (h) list several situations in which disclosing personal information is presumed to be an unjustified invasion of personal privacy under section 49(b).

[55] The ministry submits that the presumption at section 21(3)(b) is applicable to the records at issue. Section 21(3)(b) states:

¹⁴ Order MO-2954.

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

(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

[56] The ministry submits that the 911 call audio is exempt from disclosure because to disclose it would be an unjustified invasion of the affected party's personal privacy in accordance with the presumption at section 21(3)(b). The ministry submits that the 911 call audio was compiled and is identifiable as part of an investigation into a possible violation of law.

[57] The ministry notes that section 21(3)(b) only requires that there be an investigation into a possible violation of the law.¹⁵ The ministry specifies that the 911 call led to the OPP attending the location where an incident was reported by the affected party. It explains that the OPP was dispatched for the purpose of investigating the incident and laying charges if they were warranted. The ministry submits that charges could have been laid, depending on the conclusion of the OPP investigation. However, the fact that no charges were laid is not determinative or relevant for the purpose of applying the section 21(3)(b).

[58] The ministry cites Order PO-3093 in which the adjudicator found that the section 21(3)(b) presumption applied to an audio recording of a 911 call, among other records. She was satisfied that the personal information in the records was compiled by the police and police dispatch during their response and investigation of a matter involving the appellant. Accordingly, she found that the personal information was compiled and is identifiable as part of the police's investigation into a possible violation of law.

[59] The affected party does not address the section 21(3)(b) presumption in their representations.

[60] The appellant also does not directly address the section 21(3)(b) presumption in his representations. However, he does provide the following response to the paragraphs of the ministry's representations that address the presumption. The appellant submits that he requires all communications for "transparency and accountability purposes in legitimizing the reason to call the OPP." He explains that he wants to know what prompted "the summons of the OPP attendance for the call of "criminal harassment"." The appellant submits that he provided video evidence to a constable demonstrating that there was no wrongdoing on his part, and therefore no credible basis for a criminal harassment call. He states that he believes the content of the call may have been fabricated to ensure OPP attendance.

[61] Based on my review of the parties' representations and the 911 call audio, I find

¹⁵ The ministry cites Orders P-242 and MO-2235.

that the presumption at section 21(3)(b) applies.

[62] As the ministry notes, as with the information considered in Order PO-3093, the personal information in the 911 call audio was compiled by OPP in response to an incident reported by the affected party, which in turn led to the OPP attending and investigating the incident. Accordingly, I am satisfied that the personal information in the 911 call audio was compiled and is identifiable as part of an investigation into a possible violation of law.

[63] As the ministry points out, this presumption requires only that there be an investigation into a possible violation of the law.¹⁶ Therefore, the presumption still applies if no charges were laid, as was the case here.

[64] Accordingly, I find the section 21(3)(b) presumption applies and weighs against disclosure of the 911 call audio.

Section 21(2): Do any factors in section 21(2) help in deciding if disclosure would be an unjustified invasion of personal privacy?

[65] Section 21(2) lists several factors that may be relevant to determining whether disclosure of personal information would be an unjustified invasion of personal privacy.¹⁷ Some of the factors weigh in favour of disclosure, while others weigh against disclosure.

[66] The list of factors under section 21(2) is not a complete list. The institution must also consider any other circumstances that are relevant, even if these circumstances are not listed under section 21(2).¹⁸

[67] The ministry submits that section 21(2)(f) applies to the record at issue. The affected party appears to raise sections 21(2)(e) and (i). Meanwhile, the appellant appears to raise an unlisted factor, inherent fairness.

[68] The parties cite the following section 21(2) factors:

(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,

(e) the individual to whom the information relates will be exposed unfairly to pecuniary or other harm;

(f) the personal information is highly sensitive;

¹⁶ Orders P-242 and MO-2235.

¹⁷ Order P-239.

¹⁸ Order P-99.

(i) the disclosure may unfairly damage the reputation of any person referred to in the record.

Factors weighing in favour of disclosure

Unlisted factor: inherent fairness

[69] Throughout his representations, the appellant repeats the following argument in support of his position that the 911 call audio is not exempt under section 49(b) and should be disclosed to him. He states that he requires all communications for "transparency and accountability purposes in legitimizing the reason to call the OPP." He explains that he wants to know what prompted "the summons of the OPP attendance for the call of "criminal harassment"."

[70] The appellant submits that he provided video evidence to a constable demonstrating that there was no wrongdoing on his part, and therefore no credible basis for officers' stating the call was for criminal harassment. The appellant states that he believes the content of the call may have been fabricated to ensure OPP attendance. He explains that if the 911 call audio is disclosed to him, he could compare it to the video and determine if the affected party presented false information to the OPP in order to prompt a response from them, and to harass and intimidate him.

[71] I have considered whether the appellant has raised an unlisted factor that would weigh in favour of disclosure.

[72] Previous IPC orders have considered inherent fairness as an unlisted factor, on the basis that individuals who face accusations are entitled to know the case which has been made against them.¹⁹ Inherent fairness has also been recognized in cases where no charges were laid but where allegations led to a police investigation,²⁰ which is the case here.

[73] The appellant suggests in his representations that he requires access to the 911 call audio to confirm whether the affected party relayed false information during the call. He states that he would do this by comparing the content of the call to a video he has demonstrating that there was no wrongdoing on his part. Based on the foregoing, I accept that inherent fairness is a relevant factor weighing in favour of disclosure of the 911 call audio.

Factors weighing in favour of privacy protection

21(2)(f): the personal information is highly sensitive

[74] The ministry submits that the factor at section 21(2)(f) applies and weighs against

¹⁹ Orders M-82, PO-1731, PO-1750, PO-1767 and P-1014.

²⁰ Orders MO-4234 and MO-4040.

disclosure, as the personal information contained in the 911 call audio is highly sensitive. The ministry submits that the disclosure of the 911 call audio would bring a reasonable expectation of significant personal distress. It submits that the 911 call audio is, by its nature, very private and sensitive. In the ministry's view, disclosure of the personal information collected during a 911 call, where the caller has not consented to its disclosure, could be expected to be significantly distressing.

[75] The ministry relies on several orders to support its claim that section 21(2)(f) applies.

[76] The ministry cites Order P-1618, in which 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 this reasoning should be applied to the record, especially as the affected party, who placed the call, appears to be both a witness and a complainant.

[77] The ministry cites Order PO-3712, which found that section 21(2)(f) applied where consent had not been provided by affected parties in respect of the disclosure of their personal information contained in law enforcement investigation records.

[78] Lastly, the ministry cites Order PO-3093, in which the adjudicator found the following with respect to 911 records:

[31] I [...] am satisfied that there is a reasonable expectation that the affected party would experience significant personal distress if his statements to the police and the 911 operator are disclosed to the appellant. In making my decision, I took into consideration that the affected party is a complainant in a matter that was investigated by the police. Having regard to the above, I am satisfied that the factor at section 21(2)(f) applies in the circumstances of this appeal.

[79] I agree with the ministry that the factor at section 21(2)(f) applies in the present case. The affected party placed the 911 call requesting that OPP attend and did not consent to the disclosure of the 911 call audio. Given that the affected party was a complainant in this matter which was then investigated by the OPP, I accept that disclosure of the 911 call audio would cause significant personal distress. Accordingly, I find that section 2(2)(f) applies and weighs against disclosure.

21(2)(e): disclosure will result in exposure to unfair pecuniary or other harm & 21(2)(i): disclosure may unfairly damage an individual's reputation

[80] The affected party appears to be raising the factors at sections 21(2)(e) and 21(2)(i) in their representations.

[81] Section 21(2)(e) weighs against disclosure when the evidence shows that financial damage or other harm from disclosure is either present or foreseeable, and that this

damage or harm would be “unfair” to the individual whose personal information is in the record.

[82] The affected party states that they have concerns for their own and their family’s safety if the information is released. I have reviewed the 911 call audio and the affected party’s confidential and non-confidential representations. I am satisfied that the affected party has established that, in the event of disclosure, another form of harm is foreseeable and would be unfair to them.

[83] The section 21(2)(i) weighs against disclosure if disclosure of personal information might create damage or harm to an individual’s reputation that would be considered “unfair” to the individual.²¹

[84] The affected party states that the appellant has previously used this type of information to defame municipal employees on social media, and that they are concerned that the appellant will use this information to degrade and defame their personal and professional character. The appellant submits that, to the best of his knowledge, he has not used public employee names in social media posts.

[85] Based on my review of the affected party’s representations, I am also satisfied that disclosure *may* unfairly damage the affected party’s reputation. I do not make any findings with respect to the likelihood that the affected party’s reputation would be harmed in the event that the personal information at issue was disclosed. I note that this factor only requires that disclosure of personal information *might* create damage or harm to an individual’s reputation.

Weighing the presumption and factors

[86] I have found that inherent fairness, an unlisted factor, favours disclosure of the information at issue. On the other hand, I have found that the factors at sections 21(2)(e), (f) and (i) favour non-disclosure. I have also found that disclosure in this case would be a presumed unjustified invasion of privacy under section 21(3)(b), which in my view weighs significantly in favour of non-disclosure.

[87] Weighing the factors and presumption, and balancing the interests of the parties, I find that the protection of the affected party’s privacy outweighs the appellant’s desire to gain access to the personal information in the 911 call audio for inherent fairness purposes. In making this finding, I considered the highly sensitive nature of the personal information at issue, the reasonable expectation that it would remain confidential and the affected party’s concerns. I also considered the fact that no charges were laid against the appellant. Accordingly, I find that disclosure of the 911 call audio would amount to an unjustified invasion of the affected party’s privacy, and that the information is therefore exempt under section 49(b), subject to the absurd result principle addressed below.

²¹ Order P-256.

Absurd result

[88] An institution might not be able to rely on the section 49(b) exemption in cases where the requester originally supplied the information in the record, or is otherwise aware of the information contained in the record. In this situation, withholding the information might be absurd and inconsistent with the purpose of the exemption.²²

[89] The “absurd result” principle has been applied when the requester was present when the information was provided to the institution²³ and the information was or is clearly within the requester’s knowledge.²⁴ However, if disclosure is inconsistent with the purpose of the exemption, the absurd result principle may not apply.²⁵

[90] From the parties’ representations and the 911 call audio, it appears that the appellant may have been present during the 911 call. I will therefore consider whether withholding the 911 call audio might be absurd in the circumstances.

[91] The ministry submits that regardless how much knowledge the appellant has of the record, the absurd result principle does not apply. The ministry explains this is because disclosure would be inconsistent with the purpose of the exemption, which is to protect the privacy of an affected party whose personal information is contained in a law enforcement record.

[92] The ministry relies upon the reasoning set out in Order PO-3013:

[...] there is a particular sensitivity inherent in the information contained in the records, and that disclosure would not be consistent with the fundamental purpose of the *Act*, as identified by Senior Adjudicator Goodis in Order MO-1378 (including the protection of privacy of individuals, and the particular sensitivity inherent in records compiled in a law enforcement context). Accordingly, I find that the absurd result principle does not apply in this appeal.²⁶

[93] The ministry submits that the absurd result principle is not applicable, as the withheld record contains sensitive personal information belonging to an affected party and was withheld for law enforcement related reasons.

[94] The appellant does not address whether withholding the 911 call audio would lead to an absurd result.

[95] I agree with the ministry that in these circumstances, withholding the 911 call audio would not lead to an absurd result. Firstly, I do not have enough evidence to

²² Orders M-444 and MO-1323.

²³ Orders M-444 and P-1414.

²⁴ Orders MO-1196, PO-1679 and MO-1755.

²⁵ Orders M-757, MO-1323 and MO-1378.

²⁶ Order PO-3013 at para 68.

establish that the information is clearly within the appellant's knowledge. It is possible the appellant was present while the information was provided, however, even if I was satisfied this was the case, I agree with the ministry that disclosure would be inconsistent with the purpose of the 49(b) exemption – to protect the privacy of an affected party whose personal information is contained in a law enforcement record.

[96] The ministry also submits that the 911 call audio is exempt from disclosure under section 49(a) read with section 14(1)(l). Since I have found the 911 call audio is exempt from disclosure under section 49(b), it is not necessary for me to consider whether it is also exempt under section 49(a) read with section 14(1)(l). Below, I address the ministry's exercise of discretion.

Issue C: Does the discretionary exemption at section 49(a), allowing an institution to refuse access to a requester's own personal information, read with the section 14(1)(l) exemption, apply to portions of the OPP dispatch audio?

[97] Section 47(1) of the *Act* gives individuals a general right of access to their own personal information held by an institution. Section 49 provides some exemptions from this general right of access to one's own personal information.

[98] Section 49(a) of the *Act* reads:

A head may refuse to disclose to the individual to whom the information relates personal information,

where section 12, 13, **14**, 14.1, 14.2, 15, 15.1, 16, 17, 18, 19, 20 or 22 would apply to the disclosure of that personal information. [Emphasis added]

[99] The discretionary nature of section 49(a) ("may" refuse to disclose) recognizes the special nature of requests for one's own personal information and the desire of the Legislature to give institutions the power to grant requesters access to their own personal information.²⁷

[100] If the institution refuses to give an individual access to their own personal information under section 49(a), the institution must show that it considered whether a record should be released to the requester because the record contains their personal information.

[101] In this case, the ministry relies on section 49(a) read with section 14(1)(l) to withhold portions of the OPP dispatch audio. Section 14(1)(l) reads:

²⁷ Order M-352.

(1) 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.

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

[103] The OPP dispatch audio was partially disclosed to the appellant. The ministry submits that the severed information consists of ten codes and other numeric configurations, which appear to be codes. The ministry submits that it withheld these police codes in accordance with a long line of orders upholding this practice.

[104] The appellant submits that he requires access to full and accurate descriptions of all the codes generated in the call, to compare them to events in the video and for transparency and accountability.

[105] Order PO-3742 summarizes the IPC's jurisprudence on this matter: "A long line of orders²⁸ has found that police operational codes qualify for exemption under section 14(1)(l), because of the reasonable expectation of harm from their release."

[106] Order MO-3773, which considered the application of the municipal equivalent of section 14(1)(l),²⁹ provides the following reasoning:

[...] The rationale for applying section 8(1)(l) to exempt these types of codes from disclosure is to avoid compromising police officers' ability to provide effective policing services. The disclosure of these codes would make it easier for individuals engaged in illegal activities to carry them out and would jeopardize the safety of police officers.

[107] I agree with and adopt the reasoning in Orders PO-3742 and MO-3773, and the numerous other orders addressing the IPC's approach to police codes.

[108] I have listened to the withheld OPP dispatch audio, and the severed version disclosed to the appellant. The withheld, unsevered version contains codes that were removed from the severed version. In keeping with previous IPC orders, I accept that the disclosure of police codes could be reasonably be expected to facilitate the commission of unlawful acts or hamper the control of crime. As a result, I agree with the ministry and find that this information qualifies for exemption under sections 49(a) and 14(1)(l).

²⁸ The Orders cited in Order PO-3742: M-393, M-757, M-781, MO-1428, PO-1665, PO-1777, PO-1877, PO-2209, PO-2339 and PO-2409.

²⁹ Section 8(1)(l) of the *Municipal Freedom of Information and Protection of Privacy Act* is the municipal equivalent of section 14(1)(l) of the *Act*.

Issue D: Did the institution exercise its discretion under sections 49(b) and 49(a), read with 14(1)(l)? If so, should the IPC uphold the exercise of discretion?

[109] The ministry submits that it properly exercised its discretion in its application of sections 49(a) and (b) of the *Act*.

[110] The section 49(a) and (b) exemptions are 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.

[111] 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.

[112] In either case, the IPC may send the matter back to the institution for an exercise of discretion based on proper considerations.³⁰ The IPC cannot, however, substitute its own discretion for that of the institution.³¹

[113] The ministry submits it exercised its discretion under sections 49(a) and 49(b) appropriately, having taken the following factors into consideration:

- the highly sensitive personal information contained in the 911 call audio,
- the personal information in the 911 call audio was collected for a law enforcement purpose,
- the affected party did not provide consent to disclosure their personal information,
- it disclosed a portion of the OPP dispatch audio, withholding the police codes, and
- it withheld the police codes in accordance with its usual practice and a long line of orders.

[114] The appellant did not address the ministry's exercise of discretion in his

³⁰ Order MO-1573.

³¹ Section 54(2).

representations.³²

[115] I find that the ministry took into account relevant considerations in withholding the information at issue under section 49(a) and (b). In my view, the ministry took into account the purposes of the *Act*, by protecting the affected party's privacy and granting partial access to the requested information. The ministry also considered the relationship between the appellant the affected party, and the sensitive nature of the information at issue. Lastly, the ministry made its decision in keeping with its historic practice of withholding police codes, and considering the effect of disclosure on police operations. There is also no evidence before me to suggest that the ministry took into account irrelevant considerations or that it exercised its discretion in bad faith.

[116] Accordingly, I uphold the ministry's exercise of discretion to withhold the 911 call audio, in full, under section 49(b) and the OPP dispatch audio, in part, under section 49(a), read with section 14(1)(l). I dismiss the appeal.

ORDER:

I uphold the ministry's decision.

Original Signed by: _____
Hannah Wizman-Cartier
Adjudicator

October 6, 2025 _____

³² The appellant includes subheadings to this effect, however he does not address the substance of the ministry's representations.