

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER PO-4740

Appeal PA24-00071

William Osler Health System

October 7, 2025

Summary: An individual asked the William Osler Health System for the warrant that the Ontario Provincial Police (OPP) provided to the hospital that led to the hospital disclosing his medical records to the OPP. The hospital transferred this request to the OPP under section 25 of the *Freedom of Information and Protection of Privacy Act*, on the basis that the OPP had a greater interest in the record requested. The individual appealed the hospital's decision to transfer the request.

The adjudicator upholds the hospital's decision to transfer the request to the OPP as it has a greater interest in the records. She dismisses the appeal.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended, section 25.

Orders and Investigation Reports Considered: IPC Order MO-3435.

OVERVIEW:

[1] The William Osler Health System (the hospital) received a request from the appellant under the *Freedom of Information and Protection of Privacy Act* (the *Act*) for records relating to a hospital visit that occurred following a motor vehicle collision. The appellant stated that he had been told that the Ontario Provincial Police (OPP) served the hospital with a warrant for his medical records. The appellant requested "a copy of the warrant in possession of [the hospital] that authorized the disclosure of my medical

records without my consent.”

[2] The hospital issued a decision the following day, advising the appellant that it was transferring his request to the OPP pursuant to section 25(2) of the *Act*, based on the OPP having a greater interest in the records he was seeking. Section 25(2) of the *Act* permits an institution to transfer a request to another institution within 15 days if the institution considers that another institution has a greater interest in the records.

[3] The appellant appealed the hospital’s decision to the Information and Privacy Commissioner of Ontario (the IPC). A mediator was appointed to explore resolution of the appeal.

[4] As the matter was not resolved by mediation, the file was transferred to the adjudication stage of the appeals process, where an adjudicator may conduct an inquiry. I decided to conduct an inquiry and sought and received representations from the parties.¹

[5] In this order, I uphold the hospital’s decision to transfer the request to the OPP pursuant to section 25(2) of the *Act* and dismiss the appeal.

DISCUSSION:

[6] The sole issue² in this appeal is whether I should uphold the hospital’s decision to transfer the appellant’s access request to the OPP pursuant to section 25(2) of the *Act*.

[7] The relevant parts of section 25 of the *Act* provide as follows:

(2) Where an institution receives a request for access to a record and the head considers that another institution has a greater interest in the record, the head may transfer the request and, if necessary, the record to the other

¹ These representations were shared in accordance with the IPC’s *Code of Procedure*.

² In its representations provided at the adjudication stage, the hospital also argued that it had forwarded the request to the OPP pursuant to the mandatory requirement under section 25(1) of the *Act*, which states:

Where an institution receives a request for access to a record that the institution does not have in its custody or under its control, the head shall make all necessary inquiries to determine whether another institution has custody or control of the record, and where the head determines that another institution has custody or control of the record, the head shall within fifteen days after the request is received,

(a) forward the request to the other institution; and

(b) give written notice to the person who made the request that it has been forwarded to the other institution

Prior to moving to the adjudication stage, the parties were provided with a report from the mediator, setting out the facts and issues in the appeal. This report did not include section 25(1). Given my finding regarding the application of section 25(2) of the *Act* to the access request, it is not necessary for me to address whether section 25(1) applies to the access request.

institution, within fifteen days after the request is received, in which case the head transferring the request shall give written notice of the transfer to the person who made the request.

(3) For the purpose of subsection (2), another institution has a greater interest in a record than the institution that receives the request for access if,

(a) the record was originally produced in or for the other institution; or

(b) in the case of a record not originally produced in or for an institution, the other institution was the first institution to receive the record or a copy thereof.

(4) Where a request is forwarded or transferred under subsection (1) or (2), the request shall be deemed to have been made to the institution to which it is forwarded or transferred on the day the institution to which the request was originally made received it.

[8] Under section 25(2), an institution that receives an access request may transfer the request to another institution that has a greater interest in the record. This is true regardless of whether the institution that received the request has custody or control of the record.³

[9] Which of the two institutions has the “greater interest” in a particular record depends on the circumstances of its creation and dissemination, having regard to the criteria in sections 25(3)(a) and (b).⁴

[10] The purpose of section 25(2) is to give the head of an institution some latitude to decline to respond to a request for a record that the institution does, in fact, have in its custody or control, if another institution is better able to respond to the request.

[11] The OPP is part of the Ministry of the Solicitor General, an institution under the *Act*. The request was transferred the day after it was made to the hospital. There is no question that the hospital transferred the request to an institution within the fifteen-day period stipulated in section 25(2) of the *Act*. The issue to be determined is whether the OPP has a greater interest in the record at issue than the hospital.

[12] It is clear that the hospital’s position is that the OPP has a greater interest in the production order⁵ than the hospital does. However, in its representations, the hospital appears to take alternate positions regarding which of the section 25(3) criteria applies. The hospital first states that the production order was produced for the OPP but later

³ Orders P-279, P-902 and P-1428.

⁴ Order MO-1494.

⁵ The hospital refers to the record requested as a “production order” rather than a warrant.

states that the hospital “[transferred] the request to the institution who originally received the record.”

[13] The hospital also explained that, while it retains the record for disclosure traceability reasons, it keeps the production order separate from other hospital records. The hospital states that the content of the production order is unrelated to its mandate and operations, and that it has no ability to regulate the use of the production order.

[14] The hospital notes that the OPP has the same obligation under the *Act* to facilitate access requests, and in this case, is better suited to evaluate whether granting access to the production order would be appropriate. The hospital explained why it exercised its discretion to transfer the request:

[The hospital] exercised their discretion appropriately by transferring the request to the institution who originally received the record and who would be able to determine the relevant considerations as to whether the disclosure would be appropriate. [The hospital] does not exercise line of sight into OPP operations, including laying of potential criminal charges, pleas and the like; [and] would be unable to make any determination on the relevant factors associated with both disclosing the record or withholding the record.

[15] While the hospital has not been clear as to which of the section 25(3) criteria for “greater interest” the production order meets, I am satisfied, based on my review of the evidence, that the production order was created for the OPP.

[16] Moreover, even if I could not determine which of the 25(3) criteria the production order met, this office has previously found that these criteria are not exhaustive. In Order MO-3435, the adjudicator considered the identical provision of the *Municipal Freedom of Information and Protection of Privacy Act*⁶ and found that the records at issue did not meet either of the criteria. However, the adjudicator noted that she did not read that section as “containing an exhaustive list of circumstances under which another institution is considered to have a greater interest in a record.” The adjudicator in Order MO-3435 noted that there may be other circumstances relevant to determining what entity had the greater interest in a record, including the circumstances of the record’s creation and dissemination.

[17] I agree with the reasoning of the adjudicator in Order MO-3435 and apply it to the case at hand. The production order came into the hospital’s possession because the OPP served the document on the hospital. In addition to the OPP being the originating institution, production orders are also core to the OPP’s operations. The hospital was the recipient of this production order only because it held the medical records the OPP was seeking. For the reasons set out above, I find that the OPP has a greater interest in the

⁶ R.S.O. 1990, c. M.56, section 18(4).

production order than the hospital within the meaning of section 25(2) of the *Act*.

[18] The appellant does not address whether the hospital or the OPP had a greater interest in the production order. Rather, his representations focus on why he should be provided with the production order directly from the hospital.

[19] The appellant states that his medical records were released to the OPP without his consent, and that he wants to see the production order that the hospital relied on when it released his records. The appellant argues that the production order is a public document which can be obtained from the courthouse where it is issued, and states that "[the OPP] do not have a greater claim in anything that is a public document." The appellant says: "I want this search warrant that is IN possession of [the hospital] as it is explicitly related to MY medical records being released."

[20] The appellant also notes that another hospital that was served with a warrant related to the same incident provided him with a copy of that warrant.

[21] The arguments raised by the appellant are not relevant to the question of whether the transfer of the request met the criteria set out in section 25(2) and (3) which are limited to whether: 1) the transfer was to another institution under the *Act*; 2) the transfer occurred within 15 days of receiving the records; and 3) the other institution had a greater interest in the records requested. However, they may be arguments that the hospital did not appropriately exercise its discretion when it transferred the request to the OPP.

[22] The hospital states that it appropriately exercised its discretion in transferring the request to the OPP. The hospital states that in doing so, it did not remove the appellant's right to make an access request for the record, as the OPP is also subject to the *Act*. Further, the hospital states that it does not have the ability to make an appropriate determination on the access that should be provided to the production order, as that expertise belongs to the OPP.

[23] I recognize that the appellant prefers to obtain the production order directly from the hospital. However, I agree with the hospital that it did not curtail the appellant's access rights to the production order when it transferred his request to the OPP. Moreover, the OPP's ability to make a more informed determination on the access request is a legitimate factor for the hospital to consider in exercising its discretion.

[24] I conclude that the hospital was entitled to transfer the appellant's request to the OPP under section 25(2) of the *Act* and I am also satisfied that the hospital appropriately exercised its discretion in doing so. I dismiss the appeal.

ORDER:

I uphold the hospital's decision to transfer the appellant's request to the OPP pursuant to section 25(2) of the *Act* and dismiss the appeal.

Original Signed by: _____
Jennifer Olijnyk
Adjudicator

October 7, 2025 _____