

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER MO-4703

Appeal MA24-00083

London Police Services Board

October 14, 2025

Summary: An individual made a request to the London Police Services Board under the *Municipal Freedom of Information and Protection of Privacy Act* for a police report relating to a wellness check. The police granted partial access to the records but withheld portions under the personal privacy exemption in section 38(b) of the *Act* and under section 38(a), read with the law enforcement exemption for investigative techniques (section 8(1)(c)).

The adjudicator finds that the information the police withheld under section 38(b) is exempt because disclosure would be an unjustified invasion of an identifiable individual's personal privacy. However, she finds that information withheld under section 38(a) must be disclosed to the appellant as the information is not investigative techniques as required by section 8(1)(c).

Statutes Considered: *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, sections 2(1)(definition of "personal information"), 8(1)(c), 38(a), and 38(b).

Orders and Investigation Reports Considered: MO-2318, MO-4681, and PO-1731

OVERVIEW:

[1] The London Regional Police Services Board (the police) received a request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for access to a specified police report, including "release of third-party information."

[2] The police located a Call Report and associated General Occurrence Report and issued a decision granting partial access to those reports. The police denied access to

parts of the records under section 38(a)(discretion to refuse a requester's own information), read with the law enforcement exemptions at sections 8(1)(c)(investigative techniques), 8(1)(d)(confidential source), 8(1)(e)(endanger life or safety), and section 13 (threat to safety or health), as well as under section 38(b)(personal privacy) of the *Act*.¹

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

[4] A mediator was assigned to explore resolution.

[5] As mediation did not resolve the appeal, the file was transferred to the adjudication stage of the appeal process in which an adjudicator may conduct an inquiry under the *Act*. As the adjudicator in this appeal, I sought and received representations from the police and the appellant.²

[6] In the discussion that follows, I uphold the police's decision to withhold the information in the records under section 38(b). However, I find that the information the police withheld under section 38(a), read in conjunction with section 8(1)(c), is not exempt under that section and I order the police to disclose that information to the appellant.

RECORDS:

[7] At issue is the information that the police have withheld from page 1 of the Call Report, and from pages 1-2 and 4 of the General Occurrence Report.

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 38(b) apply to the information at issue?

¹ The police also withheld information pursuant to section 38(a), read with section 8(1)(l)(facilitate commission of an unlawful act). The appellant has since stated that he is not seeking information that is withheld on that basis, so section 38(a) read with section 8(1)(l) has been removed as an issue to the appeal.

² These representations were shared in accordance with the *Code of Procedure for appeals under the Freedom of Information and Protection of Privacy Act and the Municipal Freedom of Information and Protection of Privacy Act*.

- C. Does the discretionary exemption at section 38(a), allowing an institution to refuse access to a requester's own personal information, read with the section 8(1)(c) exemption, 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 personal information is it?

[8] The police rely on the discretionary exemptions at sections 38(a) and (b) of the *Act* to withhold the information at issue. Before I consider whether these exemptions apply, I must first determine whether the records at issue contain "personal information." If a record does, I must determine whether the personal information belongs to the appellant, other identifiable individuals, or both. "Personal information" is defined in section 2(1) of the *Act* as "recorded information about an identifiable individual."

[9] Information is "about" the individual when it refers to them in their personal capacity, revealing something of a personal nature about the individual. 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.³ Section 2(1) of the *Act* gives a list of examples of personal information.⁴

[10] The police state that the records contain the personal information of the appellant and a caller who made a complaint to the police (the caller). This includes names, addresses, telephone numbers, and statements made to the police.

³ Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.).

⁴ The definition of "personal information" is found in s. 2(1) of the *Act*, and reads as follows:
"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;

[11] The appellant agrees that the records contain personal information belonging to him and others.

[12] From my review of the records at issue, I find that the records contain both the appellant's and caller's personal information. This includes the appellant's name, address, date of birth, demographic information, and contact information, as well as personal opinions and views of another individual about the appellant. The personal information in the withheld portions of the records include the caller's name, age, contact and address information, as well as their statements and other information relating to their interactions with the police.

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

[13] 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 a number of exemptions from this right.

[14] Under section 38(b), where a record contains personal information of both the appellant 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 38(b) exemption is discretionary, the institution may also decide to disclose the information to the appellant. Section 38(b) reads:

A head may refuse to disclose to the individual to whom the information relates personal information ... if the disclosure would constitute an unjustified invasion of another individual's personal privacy.

[15] Sections 14(2), (3), and (4) of the *Act* provide guidance in determining whether disclosure of personal information would result in an unjustified invasion of the individual's personal privacy. Section 14(2) provides some criteria for the police to consider in making this determination, section 14(3) lists the types of information whose disclosure is presumed to constitute an unjustified invasion of personal privacy, and section 14(4) refers to certain types of information whose disclosure is presumed not to constitute an unjustified invasion of personal privacy.

[16] In their decision letter, the police claimed that section 14(3)(b) applied to some of the withheld information. This section provides that a disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy if the personal information was compiled and is identifiable as part of an investigation into a possible violation of the law. However, in the police's representations provided at the adjudication stage of the appeal, the police stated that they no longer rely on that section on the basis that the responsive records relate to a check welfare call and do not involve a violation of law. The police did not claim that any other sections of 14(3) apply, and the appellant

did not claim that any of the exceptions set out in section 14(4) of the *Act* apply to the withheld information. Given this, the question of whether disclosure of the personal information at issue would constitute an unjustified invasion of personal privacy will be determined by the consideration of the factors at section 14(2).

Section 14(2)

[17] Section 14(2) lists several factors that may be relevant to determining whether disclosure of personal information would be an unjustified invasion of personal privacy.⁵ Some of the factors weigh in favour of disclosure, while others weigh against disclosure.

[18] Each of the first four factors, found in sections 14(2)(a) to (d), if established, would tend to support disclosure of the personal information in question, while the remaining five factors, found in sections 14(2)(e) to (i), if established, would tend to support non-disclosure of that information.⁶

[19] The police state that none of the 14(2) factors weighing in favour of disclosure apply to the present situation, but that two of the factors weighing against disclosure do apply: 14(2)(e) (pecuniary or other harm) and 14(2)(h) (information supplied in confidence).

[20] The appellant states that sections 14(2)(e) and 14(2)(h) do not apply in the present circumstances but takes the position that the following factors do apply: 14(2)(a) (public scrutiny), 14(2)(b) (promote public health or safety), 14(2)(d) (fair determination of rights), and 14(2)(g) (unlikely to be accurate or reliable).

[21] The appellant also states that other factors favouring disclosure apply, which the appellant describes as inherent fairness issues and ensuring public confidence in an

⁵ Order P-239.

⁶ Section 14(2) states:

(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,

- (a) the disclosure is desirable for the purpose of subjecting the activities of the institution to public scrutiny;
- (b) access to the personal information may promote public health and safety;
- (c) access to the personal information will promote informed choice in the purchase of goods and services;
- (d) the personal information is relevant to a fair determination of rights affecting the person who made the request;
- (e) the individual to whom the information relates will be exposed unfairly to pecuniary or other harm;
- (f) the personal information is highly sensitive;
- (g) the personal information is unlikely to be accurate or reliable;
- (h) the personal information has been supplied by the individual to whom the information relates in confidence; and
- (i) the disclosure may unfairly damage the reputation of any person referred to in the record.

institution.

Factors weighing in favour of disclosure

Section 14(2)(a): disclosure is desirable for public scrutiny

[22] The appellant states that the police's response to the check welfare call was neither reasonable nor necessary. The appellant states that such checks are intended for mental health crises and emergencies, and that it is wasteful to use police funding to respond to check welfare calls in other circumstances. The appellant asserts that in order to ensure appropriate funding allocations, the police must establish boundaries that properly distinguish mental health concerns from mental health crises or emergencies. The appellant argues that disclosure in this case is desirable for public scrutiny of the police's resource allocation in these areas.

[23] Section 14(2)(a) supports disclosure when disclosure would subject the activities of the government (as opposed to the views or actions of private individuals) to public scrutiny.⁷ It promotes transparency of government actions.

[24] The issues addressed in the information that is being sought do not have to have been the subject of public debate in order for this section to apply, but the existence of public debate on the issues might support disclosure under section 14(2)(a).⁸

[25] An institution should consider the broader interests of public accountability when considering whether disclosure is "desirable" or appropriate to allow for public scrutiny of its activities.⁹

[26] Based on my review of the records, the withheld information describes fundamentally private matters relating to the appellant and the caller. In my view, disclosing this information would not promote police transparency. Even if the appellant's contention is that the police are inappropriately allocating funding to calls relating to mental health matters, the police have already disclosed portions of the records stating that the police officers did not believe the appellant to be a harm to himself or others. Disclosure of the withheld personal information would not further the appellant's claims related to inappropriate allocation of funding and is not desirable for reasons of public scrutiny.

[27] Accordingly, I find that the factor in section 14(2)(a) does not apply.

14(2)(b): disclosure may promote public health and safety

[28] In his representations, the appellant states that he had what he describes as a

⁷ Order P-1134.

⁸ Order PO-2905.

⁹ Order P-256.

"legitimate mental health crisis" in 2012, which resulted in him being apprehended by the police and then being hospitalized involuntarily. The appellant states that the behaviour exhibited by the police during this apprehension was "terrible" and contributed to his post-traumatic stress disorder. While that apprehension occurred more than a decade before the records at issue were created, the appellant states that it is relevant to the present matter. The appellant claims that since that apprehension, his interactions with police have been "tainted with discrimination regarding mental health" and contends that this discrimination extends to the report currently at issue. Given this, the appellant states that "[disclosure] of the information would raise awareness of the need for a better model for first responders responding to emergencies involving a mental health crisis."

[29] As noted in my analysis of the application of 14(2)(a), the police have disclosed the information describing the officers' contact with the appellant, including their conclusion that he was not a harm to others or himself. While the appellant argues that disclosure of the withheld information would promote public health and safety, he has not established how disclosure of the caller's personal information specifically would do so. In my view, disclosure of the withheld information, which relates largely to the caller and their communication with the police, would not promote public health or safety.

[30] On this basis, I find that the factor in section 14(2)(b) does not apply.

14(2)(d): the personal information is relevant to a fair determination of rights

[31] The appellant states that he requires the name of the caller in order to lay an information against them, and notes that this also relates to his right to apply for a restraining order against them.

[32] Section 14(2)(d) weighs in favour of disclosure of the personal information of another individual to a requester where the information is needed to allow them to participate in a court or tribunal process. Past IPC orders have found that for section 14(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;
2. The right is related to a proceeding, which is either existing or contemplated, not one that has already been completed;
3. The personal information that 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.¹⁰

[33] The police have withheld all of the caller's personal information, including their name. I am satisfied that laying an information is a legal right related to a contemplated proceeding. I am further satisfied that the name of the caller has some bearing on the right in question and would be necessary for the laying of the information.

[34] Having reviewed the records, I am not satisfied that the narrative information that has been withheld either has some bearing on or is significant to the determination of the right in question, or that it is required for the appellant to prepare for a proceeding or to ensure an impartial hearing. On this basis, while I find that the appellant has met the section 14(2)(d) as it relates to the caller's name, the appellant has not established the latter two requirements for the remaining withheld information.

[35] Accordingly, I find that the section 14(2)(d) factor applies to the name of the caller but not to the remainder of the withheld personal information in the records.

14(2)(g): the personal information is unlikely to be accurate or reliable

[36] The appellant states that his arguments regarding the frivolousness of any safety concerns show that the personal narrative information that the caller supplied to the police is unlikely to be accurate or reliable. The appellant states that in these circumstances, this should weigh as a factor in favour of disclosure of any comments made by the caller about him, and not against it. The appellant cites Order PO-1731 as authority for his position.

[37] In general, section 14(2)(g), if applicable, is a factor that weighs against disclosure of the information at issue. However, as the appellant notes, in Order PO-1731 the adjudicator found that the equivalent provision of the *Freedom of Information and Protection of Privacy Act*¹¹ could weigh in favour of disclosure in certain circumstances, stating:

It is apparent from the records themselves that the accuracy and/or reliability of the information provided by the affected persons was questionable and/or incapable of being verified. Therefore, I find that the factor in section 21(2)(g) is relevant in the circumstances of this appeal. Previous orders of this office have generally held that the likelihood that information is inaccurate or unreliable is a factor which weighs against disclosure. However, in this case, I found that the comments made about the appellants by the affected persons qualifies as the personal information

¹⁰ PO-1764, in which the relevant considerations for the application of section 14(2)(d) were adopted from the test set out in 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.).

¹¹ R.S.O. 1990, c. F.31 at section 21(2)(g).

of the appellants. In this context, I find that the fact that the information may be inaccurate or unreliable weighs in favour of disclosure.

[38] The appellant raised a similar argument in an earlier appeal with the police, addressed in Order MO-4681. As I noted in that case, the context of the request in PO-1731 differs significantly from a request for access to police reports. PO-1731 involved affected parties contacting the now Ministry of Children, Community and Social Services,¹² questioning the suitability of a prospective adoptive parent. As in MO-4681, it is not clear to me that the same rationale applies in the present case, where the personal information is inextricably intertwined between that of the caller and the appellant.

[39] In addition, while the appellant has argued that the concerns regarding his safety were unfounded, I have reviewed the records at issue and am not satisfied that the appellant has demonstrated that the personal narrative information provided by or to the caller is unreliable or inaccurate. Given this, I find that the factor in section 14(2)(g) does not apply.

Other factors

[40] The appellant states that there is an inherent fairness issue in circumstances where an individual provides detailed information about another individual to a government body, as this affects an individual's ability to control the distribution and use of his own personal information. The appellant states that the caller provided detailed, but unreliable and inaccurate, information to the police and further states that information was used against him. The appellant cites IPC Order PO-1731 for the proposition that, if inaccurate information is used against the interests of an appellant, fairness requires that the appellant be apprised of the nature of the information.

[41] As I previously noted, I am not satisfied that the appellant has demonstrated that the narrative information provided by the appellant is inaccurate. In addition, the appellant has not established that the information at issue was used against his interests. In this case, the caller provided information to the police. Following this, officers performed a wellness check and came away with the stated belief that the appellant was not a harm to himself or others. Based on the evidence before me, the police took no further actions beyond this visit. In my view, the appellant has not demonstrated that the information provided was used against his interests.

[42] The appellant also notes that, based on past experiences, he has no confidence in the police's capacity to respond appropriately to any future legitimate concerns he may have. It is unfortunate that this is the present relationship that the appellant has with the police, but this does not establish a factor favouring the police disclosing the personal information of others to the appellant.

[43] I find that these other factors cited by the appellant do not apply to weigh in favour

¹² Then called the Ministry of Community and Social Services.

of disclosure of the withheld information in the records.

Factors weighing against disclosure

14(2)(e): unfair pecuniary or other harm

[44] Section 14(2)(e) is intended to weigh 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.

[45] The police state that section 14(2)(e) applies in circumstances where the disclosure of personal information could expose an individual unfairly to unwanted contact or could expose the individual to repercussions or a fear of harm, such as harassment.¹³ In the confidential portions of their representations, the police set out the reasons they believe that it is foreseeable that an individual would suffer unfair harm, were their personal information to be disclosed.

[46] The appellant states that any alleged safety concerns are not serious or real and that the threat of harm is incongruous with the circumstances of an individual calling in a wellness check. The appellant notes that if the individual had a fear of harassment, a restraining order or peace bond ought to have been sought instead. The appellant also argues that the caller “initiated indirect, unwanted communications” with him by making the call to the police, and fears that the caller may do so again, as a way of harassing him.

[47] I do not agree with the appellant’s characterization of the caller’s contact as initiating indirect communication with the appellant. The fact that the wellness check did not result in other action on the police’s part does not establish that the caller had other motives in contacting the police or would not suffer unfair harm if their personal information was disclosed. The appellant’s assertion that there are other avenues that the caller could have pursued if they were fearful of harm likewise does not affect the assessment of whether the caller would suffer unfair harm if the withheld information was disclosed.

[48] For the factor in section 14(2)(e) to apply, the evidence must demonstrate that the damage or harm envisioned by the clause is present or foreseeable, and that this damage or harm would be “unfair” to the appellant.

[49] In Order MO-2318, former Commissioner Brian Beamish provided guidance on “unfair harm” as contemplated by section 14(2)(e), stating:

Turning to the factor at section 14(2)(e), this office has held that although the disclosure of personal information may be uncomfortable for those

¹³ Orders M-1147, P-597, and P-213.

involved in an already acrimonious matter, this does not mean that harm would result within the meaning of this section, or that any resulting harm would be unfair [Order PO-2230]. However, it has also been held that the unfair harm contemplated by section 14(2)(e) is foreseeable where disclosure of personal information is likely to expose individuals to unwanted contact with the requester [Order M-1147], or where such disclosure could expose the individuals concerned to repercussions as a result of their involvement in an investigation by the institution [Order PO-1659].

[50] I agree with and adopt the analysis set out by former Commissioner Beamish in this appeal. Based on the confidential portions of the police's representations, in my view it is foreseeable that disclosure of the caller's personal information is likely to expose them to unwanted contact with the appellant. I therefore find that the unfair harm contemplated by section 14(2)(e) is foreseeable and that the factor at section 14(2)(e) applies to weigh against disclosure of the caller's personal information.

14(2)(h): the personal information was supplied in confidence

[51] Section 14(2)(h) applies if both the individual supplying the information and the recipient had an expectation that the information would be treated confidentially, and that expectation is reasonable in the circumstances. Section 14(2)(h) requires an objective assessment of the reasonableness of any confidentiality expectation.¹⁴

[52] The police state that individuals who seek police assistance regarding their personal safety may reasonably assume that their personal information is supplied in confidence and expect that the police treat it as such. The police note that to maintain trust with the public, the police must be able to protect personal information obtained during service calls and investigations.

[53] The appellant argues that this section is not applicable because the purpose of the wellness check was to ensure his personal safety, not that of others.

[54] The test for the application of section 14(2)(h) takes into consideration whether there was an expectation that the information at issue would be treated confidentially and whether that expectation was reasonable. Information in the police's confidential representations establishes that there was an expectation on the part of both the police and the caller that the information provided would be kept confidential, and I find that expectation was reasonable. While I agree with the appellant that the purpose of the wellness check involved assessing his safety, this does not negate that there was a reasonable expectation of confidentiality regarding the information that led to the wellness check.

[55] I therefore find that the factor at section 14(2)(h) applies to weigh against

¹⁴ Order PO-1670.

disclosure of the personal information.

Section 14(2) Conclusion

[56] Regarding the information in the records, other than the caller's name, I have found that the section 14(2) factors either carry no weight or weigh against disclosure.

[57] Regarding the name of the caller, I have found that the factors at 14(2)(e) and 14(2)(h) weigh against disclosure of the personal information, while the factor at 14(2)(d) weighs in favour of disclosure. In the circumstances of this appeal, I am not persuaded that the appellant's desire to obtain access to the caller's name in order to lay an information or apply for a restraining order against them based on their contact with the police outweighs the privacy interests of the caller.

[58] I find that there are no 14(2) factors favouring disclosure that would outweigh considerations favouring privacy protection under the *Act* and therefore find that the withheld information in the records is exempt under section 38(b).¹⁵

Did the police exercise their discretion under section 38(b)? If so, should the IPC uphold the exercise of discretion?

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

[60] In addition, the IPC may find the institution erred in exercising its discretion. This can occur, for example, if the institution does so in bad faith or for an improper purpose, takes into account irrelevant considerations, or fails to consider relevant ones. In either case, the IPC may send the matter back to the institution for an exercise of discretion based on proper considerations.¹⁶ The IPC cannot, however, substitute its own discretion for that of the institution.¹⁷

[61] The police state that in exercising their discretion under section 38(b), they considered the following factors:

- The privacy of individuals/third parties should be protected;
- The relationship between the requester and the affected person(s);

¹⁵ This includes one sentence on page 4 of the General Occurrence report, which the police state is exempt under section 38(a) read with section 8(1)(c), but which includes the personal information of another individual.

¹⁶ Order MO-1573.

¹⁷ Section 43(2) of the *Act*.

- The privacy interest of the affected person(s);
- The source of the information;
- The type of record under consideration;
- The nature of the information and extent to which it is significant and/or sensitive to the institution, the requester or any affected person(s); and
- Any impact or harm that could be related to disclosure.

[62] The police state that after considering the above factors, they determined that the appellant's rights and interests were outweighed by concerns relating to disclosure. The police submit that they did not exercise their discretion in bad faith or for an improper purpose.

[63] The appellant states that in exercising their discretion, the police took into account irrelevant factors and failed to consider relevant ones. The appellant argues that the police discriminated based on mental health, and that this is evidence of exercising its discretion in bad faith.

[64] The appellant notes that the factors listed by the police only include those that weigh against disclosure, and states that a good faith exercise of discretion would also consider factors which could weigh in favour of disclosure. The appellant argues that, as the record at issue related to a check welfare occurrence, that should weigh in favour of disclosure. As regards possible harm related to disclosure, the appellant notes that any contact with third parties resulting from disclosure would involve the pursuit of legal remedies.

[65] The appellant asserts that the police failed to consider the following factors when exercising their discretion:

- Information should be available to the public;
- Individuals should have a right of access to their own personal information;
- Whether the requester is seeking their own personal information;
- Whether the requester has a sympathetic or compelling need to receive the information;
- Whether disclosure will increase public awareness in the operation of the institution;
- The age of the information; and
- The historical practice of the institution with respect to similar information.

[66] I have considered the parties' representations, the information at issue, and the circumstances of this appeal. The appellant argues that the police only considered factors weighing against disclosure, but in my view, the majority of the factors cited by the police are neutral. They may weigh in favour or against disclosure of withheld information, depending on the circumstances. In this case, the police state that they weighed the appellant's rights and interests in the information at issue, but found these outweighed by concerns relating to disclosure. I am satisfied that the police considered relevant factors when exercising their discretion and did not take irrelevant factors into account when it made its decision.

[67] I find the police appropriately exercised their discretion under section 38(b) to withhold the information at issue from the appellant.

Issue C: Does the discretionary exemption at section 38(a), allowing an institution to refuse access to a requester's own personal information, read with the section 8(1)(c) exemption, apply to the information at issue?

[68] I have upheld the police's application of section 38(b) to the records at issue. That section applies to all of the withheld information in the records, except for two pieces of information located on page 2 of the General Occurrence Report for which section 38(b) was not claimed. The police claim that section 38(a) read with section 8(1)(c) applies to those remaining pieces of information.¹⁸

[69] Section 38(a) is another exemption from an individual's general right of access to their own personal information. It reads:

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

if section 6, 7, 8, 8.1, 8.2, 9, 10, 11, 12, 13 or 15 would apply to the disclosure of that personal information.

[70] Section 38(a) of the *Act* 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 personal information.¹⁹

[71] Section 8(1)(c) states that "[a] head may refuse to disclose a record if the disclosure could reasonably be expected to [...] reveal investigative techniques and procedures currently in use or likely to be used in law enforcement."

[72] For section 8(1)(c) to apply, the police must show that disclosure of a technique

¹⁸ The police also applied section 38(a) read with sections 8(1)(d), 8(1)(e), and 13 to the records, but they did so only for portions of the records that I have already found are exempt under section 38(b). Given this, I do not need to consider the application of section 38(a) read with sections 8(1)(d), 8(1)(e), and 13 to the records at issue.

¹⁹ Order M-352.

or procedure to the public could reasonably be expected to hinder or compromise its effective utilization. The exemption normally will not apply where the technique or procedure is generally known to the public.²⁰ Additionally, the technique or procedure must be investigative; the exemption does not apply to enforcement techniques or procedures.²¹

[73] The police provided confidential representations regarding the application of section 8(1)(c). However, these representations do not address how the withheld information would reveal investigative techniques or procedures. Having reviewed the records, the withheld information relates solely to the appellant and does not describe or reveal any investigative techniques or procedures. Moreover, the police have not explained why disclosure of the withheld information would affect the police's utilization of it. In my view, the nature of the information means that it can continue to be utilized by police just as effectively with or without the appellant's knowledge of it.

[74] On this basis, I find that information on page 2 of the General Occurrence Report is not exempt under section 38(a) read in conjunction with section 8(1)(c) and do not uphold the police's decision to withhold that information.

ORDER:

1. I uphold the police's decision to withhold information under section 38(b).
2. I order the police to disclose some of the withheld information on page 2 of the General Occurrence Report to the appellant by **November 18, 2025**. I have highlighted the portions that the police must disclose on the copy of the relevant page of the records provided to the police with this order.
3. I reserve the right to require the police to provide me with a copy of the records disclosed the appellant pursuant to order provision 2, upon request.

Original Signed by: _____

Jennifer Olijnyk
Adjudicator

October 14, 2025 _____

²⁰ Orders P-170, P-1487, MO-2347-I and PO-2751.

²¹ Orders PO-2034 and P-1340.