Information and Privacy Commissioner,
Ontario, Canada

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

ORDER MO-4714

Appeal MA23-00152

Peel Regional Police Services Board

October 24, 2025

Summary: An individual requested police records regarding several incidents involving himself under the *Municipal Freedom of Information and Protection of Privacy Act*. The police granted access to some responsive records, partially released most of the responsive records and fully withheld the remaining records. The requester believes that additional video footage exists, other than the videos that the police found.

The adjudicator finds that the police properly interpreted the scope of the request and conducted a reasonable search for responsive records. She upholds the police's decision to withhold personal information of other individuals, which is exempt from disclosure under the discretionary personal privacy exemption at section 38(b) of the *Act* and protected law enforcement information, which is exempt from disclosure under the discretionary exemption at section 38(a) read with section 8(1)(g) or 8(1)(l). As a result, the appeal is dismissed.

Statutes Considered: *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, sections 2(1) (definitions of "personal information" and "law enforcement"), 8(1)(g), 8(1)(l), 17, 38(a), and 38(b).

Orders Considered: Orders PO-1655, PO-1764, PO-3742, M-352, MO-1173, MO-2108, and MO-4268.

OVERVIEW:

[1] The Peel Regional Police Services Board (the police) received a multi-part request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for

records relating to many incidents. In later correspondence with the police, the requester clarified he sought access to records of his two traffic stops by the police, including body-worn camera footage.

[2] In response to the request, the police issued an initial access decision, and two supplementary access decisions granting the appellant partial access to the responsive records. They withheld certain responsive video footage fully, and occurrence reports and handwritten officers' notes in part, under:

- the discretionary exemption at section 38(b) (personal privacy)[1] and
- the discretionary exemption at section 38(a) (discretion to refuse requester's own personal information) read with section 8(1)(l) (facilitate commission of an unlawful act) or 8(1)(g) (intelligence information).[2]

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

[4] During mediation, the police clarified which sections of the *Act* they were relying on for certain records, and advised that certain records do not exist. The appellant removed some records from the scope of the appeal,[3] and raised the issue of reasonable search regarding the existence of more body-worn camera and surveillance video footage. Since further mediation was not possible, the appeal moved to the adjudication stage, where an adjudicator may conduct an inquiry.

[5] I conducted an inquiry under the *Act* on the issues set out below by seeking written representations from the parties. I shared the non-confidential portions of the police's representations and affidavit evidence with the appellant.[4]

[6] For the reasons that follow, I uphold the police's decision and the reasonableness of their search, and dismiss the appeal.

RECORDS:

[7] At issue are four videos withheld fully under the discretionary exemption at section 38(b) and occurrence reports and handwritten officers' notes withheld in part as described

---

[1] Relying on the presumption at section 14(3)(b). Please note that while section 14(1)(f) was listed, this is not a separate exemption. It is the *exception* to the mandatory exemption at section 14(1), which would be considered if the record did not contain any of the requester's personal information.

[2] The police also withheld information related to six incidents under the mandatory exemption at section 14(1) (personal privacy), however, the appellant removed these records from the scope of the appeal during IPC mediation.

[3] See Note 2. These records correspond to pages 9-16 (record 6), 21-31 (records 9 and 10), and 52-57 (records 15, 16, and 17) of the 94 pages of records.

[4] Under the IPC's *Practice Direction 7*.

in the table below.

[8] I assigned the record numbers below, based on my review of the Mediator's Report, the police's index of records, and the IPC's 94-page amalgamated copy of the records.

Record number	**Page numbers in the IPC's 94-page copy**	**Issue(s)**
4	4-7	Responsiveness (page 6), and section 38(a) read with section 8(1)(l) for the police codes.
11	32-36	Section 38(b), and section 38(a) read with section 8(1)(l).
13	39-49	Section 38(b), and 38(a) read with section 8(1)(l) for police codes, and responsiveness (pages 40, 45-49).
14	50, 51	Responsiveness (page 51) and section 38(a) read with section 8(1)(l) (page 51).
19	69-74	Section 38(b), section 38(a) read with section 8(1)(l) for police codes, and responsiveness (page 70).
20	75-83	Section 38(a) read with section 8(1)(g), and section 38(b).
22	85-87	Section 38(b), relying on section 14(3)(b).
23	88-92	Section 38(a) read with section 8(1)(g), 38(a) read with section 8(1(l) for police codes, section 38(b), and responsiveness (pages 89 and 92).
24	93, 94	Responsiveness (page 94) and section 8(1)(l) for police codes (page 94).

ISSUES:

A. What is the scope of the request for records? Which information is responsive to the request?

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

C. Does the discretionary personal privacy exemption at section 38(b) apply to the information at issue?

D. Does the discretionary exemption at section 38(a), allowing the police to refuse access to a requester's own personal information, read with the section 8(1)(g) or 8(1)(l) exemptions, respectively, apply to the information at issue?

E. Did the police conduct a reasonable search for records?

DISCUSSION:

Issue A: What is the scope of the request for records? Which information is responsive to the request?

[9] Section 17 of the *Act* imposes certain obligations on requesters and institutions when submitting and responding to requests for access to records. This section states, in part:

> (1) A person seeking access to a record shall,
>
> . . .
>
> (b) provide sufficient detail to enable an experienced employee of the institution, upon a reasonable effort, to identify the record;
>
> . . .
>
> (2) If the request does not sufficiently describe the record sought, the institution shall inform the applicant of the defect and shall offer assistance in reformulating the request so as to comply with subsection (1).

[10] To be considered responsive to the request, records must "reasonably relate" to the request.[5] Institutions should interpret requests liberally, to best serve the purpose and spirit of the *Act*. Generally, if there is ambiguity in the request, this should be resolved in the requester's favour.[6]

Representations

[11] The police submit that portions of records 4, 13, 14, 19, 23, and 24 are non-responsive to the request.[7] They explain that they confirmed the scope of the request through corresponding with the appellant and through IPC mediation. The police explain that they identified the records that "reasonably relate" to the appellant's request, which

[5] Orders P-880 and PO-2661.
[6] Orders P-134 and P-880.
[7] See the Records section, above, for specific page numbers.

consisted of many occurrences and their related materials. The police submit that they interpreted the request liberally and, if there was any ambiguity, they erred on the side of deeming the record to be responsive before considering whether any other provisions of the *Act* applied. The police submit that they sought clarification through their extensive dialogue with the appellant, and identified additional responsive records through further searches. The police submit that they fulfilled their duty to contact the requester to clarify the request (on many occasions) before issuing their final access decision.

[12] The police also explain that an officer involved in one of the appellant's incidents found that he accidentally activated his body-worn camera for 34 seconds, but over ten hours after his involvement in the appellant's incident. The police explain that this footage is not responsive to the request as it does not involve the appellant. They note that this is reflected in one of the occurrence reports that was partially disclosed to the appellant.

[13] The appellant disagrees with the police's claim that portions of the records are not responsive to his request. He submits that the police did not ascertain the full scope of his request. In support of this position, he raises issues about the police's redaction of information in the records identified as responsive and their search.

[14] Regarding the 34-second footage, the appellant asserts that the police did not establish it is not responsive. He claims that the police officer was still in charge of his case at the time the footage was recorded and the individual who complained to the police about him (the complainant) was still on duty at work. He says that the footage is important because he faced criminal charge recommendations, later withdrawn by the Crown, based on groundless accusations by the complainant. He submits that the body-worn cameras should have been activated during discussions with that complainant.

Analysis and findings

[15] For the reasons that follow, I find that the police fulfilled their duty to confirm the scope of the request under section 17(2) of the *Act*. The police's representations establish that they corresponded repeatedly with the appellant to obtain clarification, conducted further searches based on the clarification they received, and issued supplementary access decisions following the clarification and further searches. The appellant assertion that the police's representations are "inaccurate" is unsupported. He raises points related to the police's search and redaction of records; however, these are separate issues, which I discuss under Issues B and E, below.

[16] Based on my review of the information withheld in records 4, 13, 14, 19, 23, and 24, I confirm that it is indeed non-responsive to the appellant's request because it relates to police matters other than the ones listed in the request. I also accept that the 34-second video accidentally recorded by the police more than 10 hours after their interaction with the appellant, does not relate to the appellant and is not responsive to his request. As a result, I uphold the police's decision to withhold the information identified above and the 34-second video as not responsive to the appellant's request.

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

[17] All the records at issue contain "personal information," as that term is defined in the *Act*, belonging to the appellant and other identifiable individuals, as I explain below.

[18] 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.[8] 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.[9]

[19] Section 2(1) of the *Act* gives a list of examples of personal information, such as address, identifying number, views or opinions, and information relating to the criminal or employment history of an individual.[10] If a person's name appears in a record with other personal information about them, their name is also personal information.[11]

[20] The list of examples of personal information under section 2(1) is not a complete list. This means that other kinds of information could also be "personal information."[12] For example, records reflecting interactions with an institution can constitute "personal information" under the introductory wording of the definition of that term ("recorded information about an identifiable individual") in that they would show the fact of the individual's interaction with the institution.[13]

Whose personal information is in each record?

The records at issue

[21] Based on my review of records 11, 12, 19, 20, 22, and 23, I find that each record contains the personal information of the appellant and other identifiable individuals.

[22] The police submit that the four videos contain the personal information of both the appellant and other identifiable individuals. They explain that the videos contain the personal license plate numbers of other individuals, and/or shows a display of several individuals' personal information on a police cruiser data screen. For the license plate

---

[8] See the definition of "record" in section 2(1).
[9] Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.).
[10] These examples of "personal information" are listed at paragraphs (b), (c), (d), (e), and (g) of the definition of "personal information" at section 2(1) of the *Act*.
[11] The definition of "personal information" at section 2(1) of the *Act,* paragraph (h).
[12] Order 11.
[13] See, for example, Orders MO-4429, MO-4473-I, and MO-4487 which involved information that would reveal the fact of interactions with police, or Order MO-3891 involving information that would reveal the fact of interactions with a town to complain about a business.

numbers, the police rely on a long line of IPC orders (such as Orders PO-3742, MO-1173, and MO-2108) which held that personal license plate numbers are "identifying numbers" relating to the vehicle owners, under paragraph (c) of the definition of "personal information" at section 2(1) of the *Act*. I agree with that reasoning and adopt it here. The videos contain various types of personal information relating to identifiable individuals other than the appellant and/or the inextricably mixed personal information of the appellant and one or more identifiable individuals.

Record-by-record approach

[23] It is important to know whose personal information is in the record because if the record contains the requester's own personal information, their access rights are greater than if it does not.[14] Also, if the record contains the personal information of other individuals, one of the personal privacy exemptions might apply.[15]

[24] Order M-352 establishes that I need to determine whether the record *as a whole* contains the appellant's personal information, using a "record-by-record approach", where "the unit of analysis is the record, rather than individual paragraphs, sentences or words contained in a record." Applying a record-by-record approach, I do not accept the police's position that the right of access to the remaining personal information at issue should be considered under the mandatory personal privacy exemption for the records that were partially disclosed to the appellant. All of the records at issue contain the appellant's personal information. As a result, I must consider whether the appellant has a right of access to *any withheld* personal information (whether the appellant's personal information inextricably mixed with that of others, or the personal information of others only) under the discretionary personal privacy exemption at section 38(b).

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

[25] For the following reasons, I uphold the police's decision to apply section 38(b) to the information withheld in records 11, 12, 19, 20, 22, 23, and the four videos.

[26] Section 36(1) of the *Act* gives individuals a general right of access to their own personal information held by an institution. Section 38 provides some exceptions from this right. Under the section 38(b) exemption, if a record contains the personal information of both the requester and another individual, the institution may refuse to disclose the other individual's personal information to the requester if disclosing that

[14] Under sections 36(1) and 38 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 an exemption applies.
[15] See sections 14(1) and 38(b).

information would be an "unjustified invasion" of the other individual's personal privacy.[16]

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

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

Would disclosure be "an unjustified invasion of personal privacy" under section 38(b)?

[29] Sections 14(1) to (4) provide guidance in deciding whether disclosure would be an unjustified invasion of the other individual's personal privacy.

The exceptions at sections 14(1)(a) to (e) do not apply

[30] If any of the section 14(1)(a) to (e) exceptions apply, disclosure would not be an unjustified invasion of personal privacy and the information is not exempt from disclosure under section 38(b).

[31] The police submit that none of the exceptions at sections 14(1)(a) to (e) apply. Regarding the exception at section 14(1)(a) (prior written consent of the individual), the police explain that no affected parties provided consent to the disclosure of their personal information in the records.

[32] The appellant argues that the affected parties "involuntarily or voluntarily provided consent of their personal information to [him] as they voluntarily decided to share details of the events that transpired with [him] and described their interactions between themselves and members of law enforcement regarding the mentioned incidents as they unfolded directly with [him]."

[33] I find no basis for concluding that any exceptions in sections 14(1)(a) to (e) apply. Specifically for section 14(1)(a), I reject the view that interacting with police and/or with the appellant about the underlying events means that this exception applies. The exception at section 14(1)(a) requires the individual whose personal information is in the record to have consented to the release of their personal information in *writing*. That consent must be in the specific context of the access request, meaning that the consenting individual must know that their personal information will be disclosed in response to an access request under the *Act*.[17] The evidence before me does not include such written consents. Therefore, the exception at section 14(1)(a) does not apply.

---

[16] However, the requester's own personal information, standing alone, cannot be exempt under section 38(b) as its disclosure could not, by definition, be an unjustified invasion of another individual's personal privacy; Order PO-2560.
[17] Order PO-1723.

Unjustified invasion of personal privacy: sections 14(2), (3) and (4)

[34] Sections 14(2), (3) and (4) also help me in deciding whether disclosure would or would not be an unjustified invasion of personal privacy under section 38(b). No party is claiming that section 14(4) is relevant here.

[35] In deciding whether the disclosure of the personal information in the records would be an unjustified invasion of personal privacy under section 38(b), the decision-maker[18] must consider and weigh the factors and presumptions in sections 14(2) and (3) and balance the interests of the parties.[19]

Section 14(3): is disclosure presumed to be an unjustified invasion of personal privacy?

[36] The presumption at section 14(3)(b) requires only that there is an investigation into a *possible* violation of law.[20] So, even if criminal proceedings were never started against the individual, section 14(3)(b) may still apply.[21]

[37] The police submit that the presumption at section 14(3)(b) applies. They explain that the personal information in the records (including the videos) was compiled and is identifiable as part of an investigation into a possible violation of law (the *Criminal Code of Canada*, the *Highway Traffic Act*, and/or the *Provincial Offences Act*). The police submit that the records contain "a litany of sensitive personal information captured by police" during their law enforcement investigations.

[38] The appellant does not address the presumption at section 14(3)(b).

[39] Based on my review of the records and the representations, I find that the personal information at issue was all clearly compiled and is identifiable as part of one or more investigation(s) into a possible violation of law. Therefore, the presumption at section 14(3)(b) applies, and I find that this weighs significantly against disclosure.

Section 14(2): Do any factors in section 14(2) help in deciding if disclosure would be an unjustified invasion of personal privacy?

[40] 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.[22] Some factors weigh in favour of disclosure, while others weigh against disclosure. The list of factors under section 14(2) is not a complete list. The institution must also consider any other circumstances that are relevant, even if these circumstances are not listed

[18] The institution or, on appeal, the IPC.
[19] Order MO-2954.
[20] Orders P-242 and MO-2235.
[21] The presumption can also apply to records created as part of a law enforcement investigation where charges were laid but subsequently withdrawn (Orders MO-2213, PO-1849 and PO-2608).
[22] Order P-239.

under section 14(2).[23] 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.

[41] The parties address the factor at section 14(2)(d), and the police raised the factors at sections 14(2)(f) and 14(2)(h), weighing against disclosure. I do not need to consider the latter, given my finding about section 14(2)(d) below.

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

[42] This section weighs in favour of allowing requesters to obtain someone else's personal information where the information is needed to allow them to participate in a court or tribunal process. The IPC uses a four-part test to decide whether this factor applies. For the factor to apply, all four parts of the test *must* be met:

1. Is the right in question a right existing in the law, as opposed to a non-legal right based solely on moral or ethical grounds?

2. Is the right related to a legal proceeding that is ongoing or might be brought, as opposed to one that has already been completed?

3. Is the personal information significant to the determination of the right in question?

4. Is the personal information required in order to prepare for the proceeding or to ensure an impartial hearing?[24]

[43] The police submit that it is "wholly unclear" how the information at issue, which relates to "uncharged and/or completed criminal or quasi-criminal investigations" involving various affected parties, has any practical relevance to a fair determination of the appellant's legal rights. The police rely on Order PO-1764, where the IPC held that section 14(2)(d) did not apply to the appellant's request for identifying information of others after a criminal investigation.

[44] The appellant states that he is involved with proceedings directly related to these matters and anticipates possible other ones. He submits that he will be heavily prejudiced without access to the withheld personal information, arguing that it will impede him from producing full and accurate submissions, in trying to get impartial results. He states that denying his "legal right to produce full submissions by withholding access" to the current and anticipated proceedings may violate his rights to procedural fairness.

---

[23] Order P-99.
[24] See Order PO-1764; see also Order P-312, upheld on judicial review in *Ontario (Minister of Government Services) v. Ontario (Information and Privacy Commissioner)* (February 11, 1994), Toronto Doc. 839329 (Ont. Div. Ct.).

[45] Based on the evidence before me, I am not persuaded that part one of the four-part test for section 14(2)(d) is met; as a result, it is not necessary to consider the other three parts of the test. The legal right that the appellant refers to is one to "produce full submissions" in unspecified current proceedings, and possible future ones. This position contradicts his position about the absurd result principle, where he asserts that he has seen the records "from prior as well as current proceedings." In any event, if the appellant has proceedings outside the IPC (whether criminal or quasi-criminal), he would have disclosure rights through those proceedings. Therefore, I am not persuaded that the appellant has identified a legal right that requires him to have the personal information at issue disclosed to him, to satisfy the first part of the test for section 14(2)(d). For these reasons, I find that section 14(2)(d) does not apply.

Section 38(b) applies to all the personal information withheld in the records

[46] Considering the interests of the parties and my findings that section 14(3)(b) applies and that section 14(2)(d) does not, there are no considerations weighing in favour of disclosure to any of the personal information withheld in the records. As a result, the exemption at section 38(b) applies to all the personal information withheld. I have reviewed the records and agree with the police that no redactions (or further redactions) can be made without disclosing exempt information.

The absurd result principle does not apply

[47] An institution might not be able to rely on section 38(b) if the requester originally supplied the information in the record or is otherwise aware of the information contained in the record. In such a case, withholding the information might be absurd and inconsistent with the purpose of the exemption.[25] For example, the "absurd result" principle has been applied when:

- the requester was present when the information was provided to the institution,[26] or
- the information was or is clearly within the requester's knowledge.[27]

[48] However, if disclosure is inconsistent with the purpose of the exemption, the absurd result principle may not apply.[28]

[49] The appellant argues that the absurd result principle applies because he knows the individuals involved and is aware of their personal information; he also asserts that he viewed the information in previous and in current proceedings. He, therefore, submits that no unjustified invasion of privacy is "slightly possible." He also submits that the

[25] Orders M-444 and MO-1323.
[26] Orders M-444 and P-1414.
[27] Orders MO-1196, PO-1679 and MO-1755.
[28] Orders M-757, MO-1323 and MO-1378.

individuals involved involuntarily or voluntarily consented to their personal information being shared by interacting with the appellant and with police regarding the incidents.

[50] The police disagree, noting that the appellant was not present for most of the investigation(s). They state that it is unclear whether, or to what extent, he knows the information withheld.

[51] Based on my review of the parties' representations and the withheld information itself, I am not persuaded that the absurd result principle applies. It does not apply simply because the appellant knows (or believes he knows) the identity and certain personal details of the affected parties whose personal information is withheld. The personal information at issue does not just consist of biographical information; as I found above, it also consists of other types of personal information, such as statements made to the police. The evidence does not establish that such personal information is clearly within the appellant's knowledge. For these reasons, I find that the absurd result principle does not apply.

Exercise of discretion

[52] Section 38(b) is a discretionary exemption. On appeal, the IPC may determine whether the institution failed to exercise its discretion. The IPC may also find that the institution erred in exercising its discretion where, for example: if it does so in bad faith or for an improper purpose; it considers irrelevant factors; or it fails to consider relevant factors. In either case, the IPC may send the matter back to the institution for an exercise of discretion based on proper considerations.[29] The IPC cannot, however, substitute its own discretion for that of the institution.[30]

[53] The police submit that they exercised their discretion under section 38(b) in good faith, for a proper purpose, considering all relevant factors, and not considering any irrelevant ones. They explain that they reviewed each record individually, balancing the rights of the parties, and considering possible exceptions to the exemption, the sensitivity of the law enforcement investigations, the fact that the appellant was seeking records with his personal information, and the mandate to protect sensitive personal information.

[54] The appellant submits that the police's exercise of discretion should not be upheld. He submits that the police failed to thoroughly review and comply with the *Act* and failed to determine the proper exemptions or explain them to him. He asserts that he has "overwhelming grounds" that the police failed to act in good faith when severing the records, severing more than was necessary, and that they withheld most of the records from him.

[55] Based on my review of the parties' representations and the records, I am satisfied that the police exercised their discretion in good faith, for a proper purpose, considering

[29] Order MO-1573.
[30] Section 43(2).

relevant factors in the circumstances, and not irrelevant factors. I accept that the relevant factors included, for example, the purpose of the section 38(b) exemption and the interests it seeks to protect, the sensitivity of the information to the affected parties, and the fact that the records contain the appellant's personal information. From my review of the partially disclosed records, the police conducted a detailed analysis of what could be disclosed, and what could not, so I reject the appellant's assertions in this regard. I also reject the appellant's bald assertion that the police exercised their discretion in bad faith. For these reasons, I uphold the police's exercise of discretion under section 38(b).

Issue D: Does the discretionary exemption at section 38(a), allowing the police to refuse access to a requester's own personal information, read with the section 8(1)(g) or 8(1)(l) exemptions, respectively, apply to the information at issue?

[56] For the reasons set out below, I uphold the police's application of section 38(a) read with section 8(1)(g) to withhold portions of records 20 and 23, and of section 38(a) read with section 8(1)(l) to withhold portions of records 4, 11, 13, 14, 19, 23, and 24.

[57] As discussed under Issue C, section 36(1) of the *Act* gives individuals a general right of access to their own personal information held by an institution and section 38 provides some exemptions from this general right of access to one's own personal information. Section 38(a) of the *Act* says: "A head may refuse to disclose to the individual to whom the information relates personal information, if section . . . 8, . . . would apply to the disclosure of that personal information."

[58] Section 8 contains several exemptions from a requester's right of access, mostly related to the context of law enforcement.

[59] Sections 8(1)(g) and (l) state:

> (1) A head may refuse to disclose a record if the disclosure could reasonably be expected to,
>
> > (g) interfere with the gathering of or reveal law enforcement intelligence information respecting organizations or persons;
> >
> > (l) facilitate the commission of an unlawful act or hamper the control of crime.

[60] There is no dispute that term "law enforcement,"[31] defined in section 2(1) of the *Act*, is relevant here since the records relate to police investigations into a possible violation of law.

[61] The exemptions at sections 8(1)(g) and 8(1)(l) apply where a specified harm

[31] The term "law enforcement" appears in many, but not all, parts of section 8.

"could reasonably be expected to" result from disclosure of the record. The law enforcement exemption must be approached in a sensitive manner, because it is hard to predict future events in the law enforcement context, and so care must be taken not to harm ongoing law enforcement investigations.[32] Harm can sometimes be inferred from the records themselves and/or the surrounding circumstances.[33] Parties resisting disclosure must show that the risk of harm is real and not just a possibility.[34] However, they do not have to prove that disclosure will in fact result in harm. How much and what kind of evidence is needed to establish the harm depends on the context of the request and the seriousness of the consequences of disclosing the information.[35]

Section 8(1)(g): interfere with the gathering of or reveal law enforcement intelligence information

[62] For section 8(1)(g) to apply, there must be a reasonable basis for concluding that disclosure of the information at issue could be expected to interfere with the gathering of or reveal law enforcement intelligence information. The term "intelligence information" has been defined in the caselaw as:

> Information gathered by a law enforcement agency in a covert manner with respect to ongoing efforts devoted to the detection and prosecution of crime or the prevention of possible violations of law. It is distinct from information compiled and identifiable as part of the investigation of a specific occurrence.[36]

[63] Most of the police's representations about this exemption are confidential, and I did not share them with the appellant. The police offered to provide affidavit evidence confirming the accuracy of the confidential representations, if I deemed it necessary, however, I did not.

[64] The appellant says that he cannot comment on the confidential representations and that an affidavit may be necessary. He also asserts: "The matters are no longer ongoing nor re-openable in any circumstance and permanently closed, no harm is slightly possible as no further investigative measures or prosecution can be commenced on these past occurrences."

[65] Based on my review of the information withheld in records 20 and 23 under section 38(a) read with section 8(1)(g), and considering the police's confidential representations, I am satisfied that disclosure of the information withheld could reasonably be expected

---

[32] *Ontario (Attorney General) v. Fineberg* (1994), 19 O.R. (3d) 197 (Div. Ct.).
[33] Orders MO-2363 and PO-2435.
[34] *Merck Frosst Canada Ltd.* v. *Canada (Health)*, [2012] 1 S.C.R. 23.
[35] *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)*, 2014 SCC 31 (CanLII) at paras. 52-4; *Accenture Inc.* v. *Ontario (Information and Privacy Commissioner)*, 2016 ONSC 1616.
[36] Orders M-202, MO-1261, MO-1583 and PO-2751; see also Order PO-2455, confirmed in *Ontario (Community Safety and Correctional Services),* 2007 CanLII 46174 (ON SCDC).

to reveal intelligence information about one or more person(s). The very nature of the information withheld is enough to find that the exemption applies; there does not need to be a risk associated with ongoing investigations, as the appellant argues.

Section 8(1)(l): facilitate commission of an unlawful act or hamper the control of crime

[66] For section 8(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.

[67] The police withheld information in portions of records 4, 11, 13, 14, 19, 23, and 24 under section 38(a) read with section 8(1)(l). The police submit that the information withheld under this exemption is limited to police operational codes, also known as "10-codes." They rely on a long line of IPC orders, including Orders PO-1655 and MO-4268,[37] finding that police operational codes qualify for exemption under section 8(1)(l), due to the reasonable expectation of harm that could result from their release. They submit that knowledge of police operational codes could reasonably interfere with police investigative privilege and could endanger police officers. As a result, they submit that police operational codes should never be disclosed to the public.

[68] The appellant submits that the absurd result principle applies to the police codes, setting out what he (believes to be) the meaning of certain codes. However, the appellant's knowledge of what the 10-codes are is not relevant to the determination of the exemption.

[69] Based on my review of the portions of records 4, 11, 13, 14, 19, 23, and 24 withheld under section 38(a) read with section 8(1)(l), I confirm it is all 10-codes, except for the police classification information withheld in record 11. Although the latter is not a 10-code, I have approached this police classification information and the law enforcement exemption claimed over it sensitively because it is hard to predict future events in the law enforcement context. I am satisfied that, by its nature, the police operational classification information in record 11 could reasonably be expected to make it easier for someone to commit an unlawful act or get in the way of the control of crime. Therefore, I uphold the police's decision to withhold all the information over which they claimed section 38(a) read with section 8(1)(l), subject to my review of the police's exercise of discretion, below.

Exercise of discretion

[70] The discretionary nature of section 38(a) 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.[38] If the institution refuses to give an individual access to their own personal information under section 38(a),

[37] The police also cite Orders PO-1777, PO-1877, PO-2209, and PO-2339.
[38] Order M-352.

the institution must show that it considered whether a record should be released to the requester because the record contains their personal information.

[71] The police submit that they exercised their discretion under section 38(a) in good faith, for a proper purpose, considering all relevant factors, and not taking into account any irrelevant considerations. They considered the sensitive nature of the underlying police investigations into possible violations of law, and the fact that the appellant was seeking records containing his own personal information. They state that they severed only what was exempt and disclosed the rest to the appellant.

[72] The appellant's position about the exercise of discretion is the same as his position discussed above for the exercise of discretion under section 38(b).

[73] Having reviewed the information withheld and the parties' representations, I accept that the police exercised their discretion under section 38(a) in good faith and for a proper purpose, considering relevant factors such as the purpose of the exemption, the sensitivity of the information to the police, and the fact that the appellant was seeking records containing his personal information. The appellant's position about the exercise of discretion is not supported by the evidence before me. For these reasons, I uphold the police's exercise of discretion under section 38(a).

Issue E: Did the police conduct a reasonable search for records?

[74] The appellant believes that additional body-camera and surveillance video footage exists. If a requester claims that additional records exist beyond those found by the institution, the issue is whether the institution has conducted a reasonable search for records as required by section 17 of the *Act*.[39] If the IPC is satisfied that the search carried out was reasonable in the circumstances, it will uphold the institution's decision.

[75] Although a requester will rarely be in a position to indicate precisely which records the institution has not identified, they still must provide a reasonable basis for concluding that such records exist.[40]

[76] The *Act* does not require the institution to prove with certainty that further records do not exist. However, the institution must provide enough evidence to show that it has made a reasonable effort to identify and locate responsive records;[41] that is, records that are "reasonably related" to the request.[42]

[77] A reasonable search is one in which an experienced employee knowledgeable in the subject matter of the request makes a reasonable effort to locate records that are

[39] Orders P-85, P-221 and PO-1954-I.
[40] Order MO-2246.
[41] Orders P-624 and PO-2559.
[42] Order PO-2554.

reasonably related to the request.[43] The IPC will order a further search if the institution does not provide enough evidence to show that it has made a reasonable effort to identify and locate all of the responsive records within its custody or control.[44]

Representations

The police's representations and affidavit evidence

[78] The police provide detailed representations and affidavit evidence to explain their search efforts. They state that they clarified and confirmed the scope of the appeal with the appellant and adopted a liberal reading of the request to include any record that may have involved interaction between the appellant and the police.

[79] The police note that the general principles about what a reasonable search is and the *Act* do not say how a search should be conducted or what details need to be included in an affidavit. In their representations and affidavit, they explain that a freedom of information analyst, an employee knowledgeable in the subject matter of the request, led the search efforts and:

a. instructed an analyst to conduct a Niche (i.e. police database) and UCR[45] query of the appellant's name

b. obtained and reviewed a Persons Detail Report, which contained a summary of all the police occurrences involving the appellant in any capacity

c. corresponded with the appellant, and obtained further information from him as necessary to identify any further responsive records

d. identified all individuals within the police who may possess responsive records, and then asked them for any responsive records, and

e. reviewed all responses from police staff and confirmed that there were no further outstanding materials related to the records.

[80] Therefore, the police submit that they searched all potentially responsive databases, communications, and videos to locate responsive records.

[81] Regarding the appellant's assertions that additional surveillance footage and/or body-worn camera footage exists, the police note that they already wrote to the appellant explaining that the police did not download or retain any footage from external parties and that the appellant should obtain the footage from the specified external party involved. The police note that in the same letter, they also advised that the officer in

[43] Orders M-909, PO-2469 and PO-2592.
[44] Order MO-2185.
[45] Although the police did not state what UCR means, it appears from past orders, such as Orders MO-2410-F, MO-2844, and MO-3831-I, that it stands for "Uniform Crime Reporting."

charge confirmed that there was no body-worn video on file for that incident, and that the police's pilot program for body-worn cameras started after that incident. Finally, the police acknowledge an erroneous date in their representations and name in the affidavit but note that the remaining details are accurate. They explain why the search results are unchanged: the body-worn footage for a specified incident was searched for three times, including by the police's legal department, and the constables involved confirmed repeatedly that there was no responsive footage for that incident.

The appellant's representations

[82] The appellant asserts that he has "overwhelming evidence" that the police did not conduct a reasonable search. However, most of his representations relate to his views about access to information redacted in part or completely withheld (which are separate from the issue of reasonable search). The remaining representations essentially amount to a challenge of the reasonableness of the police's initial search efforts, pointing out that the police made additional disclosures to him after their first search. For example, he notes that one officer should have been contacted in the initial search but was not contacted until later. He also notes that the police erred in the describing the date of the incident and that body-worn camera footage for a certain incident "may" exist because the officers involved worked at the airport, where the pilot project started. He submits that the police did not "exhaust" their resources to conduct a reasonable search, and that they did not act in good faith. He notes that the police took the appropriate steps when directed to but not before that.

Analysis and findings

[83] Based on my review of the parties' representations, the affidavit evidence, and the wording of the request, I am satisfied that the police conducted a reasonable search. I am not satisfied that the appellant has established a reasonable basis for concluding that additional responsive records exist. The police's representations and affidavit evidence provide sufficient detail to establish that the employee leading the search was knowledgeable in the subject matter of the request, and that she searched (or directed the appropriate staff to search) in locations where records reasonably related to the request could be expected to be located. The fact that one officer was not initially contacted does not undermine this, since he was eventually contacted – a fact the appellant acknowledges. In my view, it is understandable that various individuals would be contacted about this request at different times considering to the multiple communications required with the appellant to confirm the scope of the request. I accept the police's evidence that they searched three times for footage of a certain incident and did not find any. The police's search efforts were reasonable and adequate, and I see no reason to order another search in the circumstances. I uphold the police's search.

ORDER:

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

Original Signed by: October 24, 2025

Marian Sami
Adjudicator