

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER MO-4759

Appeal MA24-00348

York Regional Police Services Board

February 5, 2026

Summary: The appellant sought access to records about an investigation into the death of her son from the York Regional Police Services Board. The police granted partial access to the responsive records. They withheld audio recordings and notes from statements given by two affected parties under the discretionary personal privacy exemption at section 38(b) of the *Municipal Freedom of Information and Protection of Privacy Act*. In this order, the adjudicator finds that disclosure of the withheld information is not an unjustified invasion of personal privacy because there are compassionate reasons for disclosure to the deceased's mother under section 14(4)(c) of the *Act*. The adjudicator orders the police to disclose that withheld information.

Statutes Considered: *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, ss. 2(1), 14(1), 14(3)(b), 14(4)(c), and 38(b).

OVERVIEW:

[1] A mother submitted a request to the York Regional Police Services Board (the police) under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for records relating to a police investigation into the death of her minor son. The mother sought copies of any officers' notes, reports, interviews, transcripts of tapes made by certain detectives on specific dates, and correspondence.

[2] The police issued a decision to deny access to all the responsive information under the discretionary exemption for law enforcement activities at section 8 of the *Act*, stating that the matter was still under investigation. The mother, now the appellant, appealed

the police's decision to the Information and Privacy Commissioner of Ontario (IPC). During IPC mediation, the police issued a revised decision granting the appellant partial access to some of the responsive information. The police explained that they revised their decision to disclose some of the responsive information to the appellant because they obtained consent from some of the affected parties, and because they determined that the compassionate reasons provision at section 14(4)(c) applied to some of the information. The police continued to withhold records they said contained the personal information of affected parties, who did not consent to the release of that information, under the discretionary personal privacy exemption at section 38(b) of the *Act*.

[3] After receiving the revised access decision, the appellant confirmed that she seeks access to specific withheld information in the responsive records related to two affected parties. She also raised the public interest override provision. The police maintained their decision to deny access to the narrowed records. They clarified that the information remaining at issue is two audio recordings and monitor notes from statements given by affected parties who did not consent to the release of their information.

[4] A mediated resolution was not possible, and the matter was moved to the adjudication stage of the appeals process where an adjudicator may conduct a written inquiry pursuant to the *Act*. I commenced an inquiry and received representations from the police, the appellant and the two affected parties.¹

[5] In this order, I conclude that the audio recordings and monitor notes contain the mixed personal information of the appellant, her son, and the affected parties. I order the police to disclose the withheld information in the records to the appellant for compassionate reasons under section 14(4)(c) of the *Act*.

RECORDS:

[6] The records at issue in this appeal arise from tragic circumstances: the police's investigation into the sudden death of the appellant's son who passed away while attending an overnight event with a sports team. The records at issue are the audio recordings and monitor notes taken during the police's interviews of two of the coaching staff (the coaches) who were with the appellant's son at the time of his death. The monitor notes (the notes) are partial written summaries of the audio recordings of the statements the coaches gave to the police. Each audio recording is approximately 30 minutes long. The notes are located at pages 91 to 97 of the records package.

¹ I determined that some portions of the appellant and affected parties' representations met the IPC's confidentiality criteria in *Practice Direction Number 7* and I did not share those portions with the parties. To maintain that confidentiality, I refer to the parties' arguments generally in this order to explain my decision.

ISSUES:

- A. Do the audio recordings and notes contain "personal information" as defined in section 2(1) and, if so, to whom does it relate?
- B. Does the discretionary exemption at section 38(b) apply to the audio recordings and notes?

DISCUSSION:

Issue A: Do the audio recordings and notes contain "personal information" as defined in section 2(1) of the Act and, if so, to whom does it relate?

[7] To decide which sections of the *Act* may apply, I must first decide whether the audio recordings and notes contain "personal information," and if so, to whom the personal information relates. Section 2(1) of the *Act* defines "personal information" as "recorded information about an identifiable individual." "Recorded information" is information recorded in any format, such as paper records, electronic records, digital photographs, videos, or maps.²

[8] Information is "about" the individual when it refers to them in their personal capacity, which means that it reveals something of a personal nature about the individual. Generally, information about an individual in their professional, official or business capacity is not considered to be "about" the individual.³ However, in some situations, even if information relates to an individual in a professional, official or business capacity, it may still be "personal information" if it reveals something of a personal nature about the individual.⁴

[9] Information is about an "identifiable individual" if it is reasonable to expect that an individual can be identified from the information either by itself or if combined with other information.⁵ It is important to know whose personal information is in the record. If the record contains the requester's own personal information, their access rights are greater than if it does not.⁶ Also, if the record contains the personal information of other individuals, one of the personal privacy exemptions might apply.⁷

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

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

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

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

⁶ 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 the exemption applies.

⁷ See sections 14(1) and 38(b).

The police's representations

[10] The police submit that the audio recordings and notes contain the coaches' personal information detailing their involvement in and perceptions of the events surrounding the death of the appellant's son. The police say that the audio recordings and notes also contain the personal information of the appellant's son, and of other identifiable individuals in attendance when he had a medical episode that he did not survive. The police assert that the statements provided by the coaches are entirely their "personal information."

[11] The police submit that the deceased's personal information in the records is so intertwined with that of the coaches and other individuals that it cannot reasonably be severed and released to the appellant without disclosing the personal information of the affected parties. They say that the coaches also provided personal information about other individuals in their interviews with the police, including other attendees at the event, the appellant's deceased son, emergency personnel, and the appellant and her spouse. The police say that the coaches refer to the deceased and other individuals within the records at issue, and therefore the coaches and the other individuals are identifiable.

[12] The police submit that the personal opinions and views of the coaches are about them in their personal capacity. They submit that the coaches were acting as volunteers and not in attendance in a professional capacity. The police argue that even if the affected parties' roles as coaching staff for a sports team could be considered professional, the information reveals something of a personal nature about them due to the relationship between them, the other members of the team, the appellant's deceased son, and the nature of the events. They submit that past IPC orders have found that information in records about individuals that is collected and used for a law enforcement purpose is their "personal information." The police note that the records at issue are statements they collected as part of an investigation into the sudden death of a minor. As a result, they submit that this information reveals something of a personal nature about the coaches, which causes it to cross over from professional information into the realm of "personal information."

The appellant's representations

[13] The appellant submits that the coaches made the statements to the police in their official capacity as coaches and representatives of an organized sports league. She says the information is about the time leading up to her son's death while he was in the coaches' care. The appellant asserts that the coaches owed a duty to supervise and protect her son. She argues that the coaches should have to provide to her, as the deceased's parent, all information about what happened.

[14] The appellant says that "personal information" only refers to information about a person in their personal capacity, and not any information about a person in their professional, official or business capacity. She argues that the coaches' attendance at the

event in their official capacity as coaches and supervisors does not reveal personal information about them. She denies that the audio recordings and notes include information about the coaches' personal lives, or their own personal information. She submits that in the audio recordings and notes the coaches discuss the actions they took and the things that happened while her son was in their care. Specifically, she says that the records in question are about the final hours leading up to her minor son's death. She says that the personal information in the audio recordings and notes is not about the coaches themselves but rather, about her son, herself and her other family members. With her representations, the appellant provides consent forms signed by her family members who are identified in the records at issue.

Coaches' representations

[15] The coaches submit the same representations. They both say that the audio recordings and notes contain their personal information, including their names, contact information, and their responses to police or investigators' questions. They say the audio recordings and notes directly or indirectly reveal their identities and involvement in the matters at issue. They say their personal information was collected for law enforcement purposes, and with the expectation that it would not later be disclosed.

Analysis and findings

[16] On my review of the audio recordings and notes, I find that they all contain "personal information" of various identifiable individuals, as defined by the *Act*. Specifically, they all contain the personal information of the coaches, the appellant, her deceased son and other family members, within the meaning of paragraphs (a), (b), (e), (g) and (h) of the definition of "personal information" in section 2(1) of the *Act*.⁸

[17] The audio recordings and notes contain the coaches' detailed recollections about what they did, what the appellant's son did, and generally, what happened the night he passed away. This information is clearly the appellant's son's personal information as it is about the sudden medical event he experienced, and his death. The audio recordings and notes also reveal information of a personal nature about the coaches: their description of the events leading to the tragic death of one of their players and their explanation of how they responded to the crisis.

[18] I have considered the appellant's assertion that the information at issue is not the coaches' personal information because they were acting in a professional capacity at the time. Even if I were to find that the coaches were acting in a professional capacity during the relevant timeframe, I would nonetheless find that the audio recordings and notes reveal something of a personal nature about them.⁹ The coaches discuss their recollections of a tragic event and discuss how they reacted. Their descriptions of their

⁸ I note that the statements do not contain the coaches' addresses or any contact information, nor do they contain any other individuals' contact information.

⁹ Orders P-1409, R-980015, PO-2225 and MO-2344.

actions in response to the situation, their feelings and emotions expressed, and opinions about what happened, are all personal to them and their experiences dealing with the crisis that unfolded. In my view, the audio recordings and notes undeniably contain the coaches' personal information.

[19] The audio recordings and notes also contain the appellant's son's personal information, including medical information, and descriptions of his activities and actions leading up to his death. The information about the coaches and the appellant's son is inextricably intertwined in the audio recordings and notes.

[20] Some discrete portions of the audio recordings and notes also contain the appellant's personal information, as well the personal information of other family members of the appellant's son. This information includes medical information, and other information about how the appellant and her spouse responded to being notified about what was happening with their son.

[21] I find that there is no other personal information of additional individuals in the audio recordings or notes. Although some additional individuals are referenced, they are mentioned either in passing, in a professional capacity, or without any corresponding information that could be considered "personal information."

[22] Because the audio recordings and notes each contain the personal information of the appellant, her deceased son, and the coaches, the discretionary personal privacy exemption at section 38(b) applies in determining the appellant's right of access to each of them.

Issue B: Does the discretionary exemption at section 38(b) apply to the audio recordings and notes?

[23] 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. Under section 38(b), where a record contains personal information of both the requester and another individual, and disclosure of the information would be an unjustified invasion of the other individual's personal privacy, the institution may refuse to disclose that information to the requester. Section 38(b) of the *Act* 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.

[24] The section 38(b) exemption is discretionary. As such, the institution may also decide to disclose the information to the requester. 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).

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

- If any of the section 14(1)(a) to (e) exceptions apply, disclosure is not an unjustified invasion of personal privacy, and the information is not exempt from disclosure under section 38(b).
- Section 14(2) contains a non-exhaustive list of factors that may be relevant in determining whether the disclosure of personal information would be an unjustified invasion of personal privacy. Some of the factors weigh in favour of disclosure, while others weigh against disclosure.
- Section 14(3) lists circumstances where disclosure of personal information is presumed to be an unjustified invasion of personal privacy.
- Section 14(4) lists circumstances where disclosure of personal information is not an unjustified invasion of personal privacy, even if one of the section 14(3) presumptions exists.

[26] To be clear, if one of the exceptions in section 14(4) applies, it is not necessary to decide if any of the factors or presumptions in sections 14(2) or (3) apply.

[27] The police claim that the presumption at section 14(3)(b) applies because the personal information in the records was compiled and are identifiable as part of an investigation into a possible violation of law. They argue that disclosure of the withheld information is presumed to be an unjustified invasion of the coaches' personal privacy. They also cite the factors at sections 14(2)(f) and (h), which address personal information that is highly sensitive and was supplied in confidence, respectively, and argue these weigh in favour of protecting the coaches' privacy. The appellant claims that the section 14(4)(c) compassionate reasons exception applies and that the information at issue should be disclosed to her under that section. As noted above, if the withheld information fits within any of the paragraphs in section 14(4), disclosure is not an unjustified of personal privacy, even if one of the section 14(3) presumptions exists. As a result, I begin by considering the application of section 14(4)(c).

Section 14(4)(c)

[28] The principal issue in relation to the disclosure of the records at issue in this appeal is whether the exception in section 14(4)(c) to the exemption in section 14(1) of the *Act* applies to permit the disclosure of the personal information at issue. Section 14(4)(c) states:

Despite subsection (3), a disclosure does not constitute an unjustified invasion of personal privacy if it,

discloses personal information about a deceased individual to the spouse or a close relative of the deceased individual, and the head is satisfied that, in the circumstances, the disclosure is desirable for compassionate reasons.

[29] In Orders MO-2237 and MO-2245, Commissioner Brian Beamish established that the application of section 14(4)(c) requires a consideration of three questions, each of which must be answered in the affirmative for the exception to apply:

1. Do the records contain the personal information of a deceased individual?
2. Is the requester a spouse or "close relative" of the deceased individual?
3. Is the disclosure of the personal information of the deceased individual desirable for compassionate reasons, in the circumstances of the request?

[30] I consider each of these questions below.

Step 1 - Personal information of the deceased

[31] The audio recordings and notes contain the coaches' statements about the appellants' son and the circumstances surrounding his death, including the time leading up to these events. Above, I concluded that this information was the deceased's personal information. Accordingly, the first requirement of the section 14(4)(c) test is satisfied.

Step 2 - Spouse or "Close Relative"

[32] "Close relative" is defined in section 2(1) of the *Act* as:

..a parent, child, grandparent, grandchild, brother, sister, uncle, aunt, nephew or niece, whether related by blood or adoption[.]

[33] I am satisfied that, as the mother of the deceased individual whose personal information is contained in the audio recordings and notes at issue, the appellant qualifies as a "close relative" for the purposes of section 14(4)(c).

Step 3 - Desirable for Compassionate Reasons

[34] The third step in the section 14(4)(c) test is to determine whether the disclosure of the personal information of the deceased individual is desirable for compassionate reasons, in the circumstances of the request.

The parties' submissions

[35] The police deny that section 14(4)(c) applies to the audio recordings and notes. They say that the statements in the audio recordings and notes were obtained from the coaches months after the death of the appellant's son occurred and after the appellant

had spoken to several individuals to gain insight into his death. The police say that the information at issue is predominantly about the coaches, that it mainly relates to their personal opinions and recollections of what occurred prior to the death of the appellant's son and his medical episode. The police deny that this information would provide any additional information related to the circumstances surrounding the death of the appellant's son that has not already been provided to the appellant. As such, the police maintain that the disclosure of the information at issue would interfere with the coaches' right to privacy.

[36] The coaches deny that the disclosure of their information is necessary for compassionate reasons, and they deny that any compassionate considerations that may exist outweigh the need to protect their personal privacy. In summary, they argue that the disclosure of their personal information would constitute an unjustified invasion of their personal privacy under the *Act*. They submit that their personal information in the records is highly sensitive, was provided in confidence in a law enforcement context, and could cause them significant personal distress if disclosed.

[37] The appellant makes extensive representations on the application of section 14(4)(c). To maintain her privacy while providing reasons for my decision, I will summarize her main arguments. She submits that she should have access to the audio recordings and notes of statements made by the coaches who were supervising her son at the time of his medical emergency and subsequent death. She says that all the information at issue is about her son, the emergency preceding his death, and the events that took place. She says that as his mother, and particularly because he was a minor child at the time of his death, she believes she should have access to all the withheld information.

[38] She submits that the audio recordings and notes represent the most accurate description of what happened because the coaches' statements were given to the police before she submitted any complaints to the sport association about what happened. She states that after she submitted her complaints, and during the independent third-party review process, some aspects of the coaches' accounts about what happened changed. The appellant explains that she needs access to this information to better understand what happened to her son, including the progression of his medical emergency, and the evaluation of the care he received. She says that even details that may appear to be of little importance to the coaches or to the police may be critically important to her understanding of what happened and to the possible prevention of the same or a similar tragedy among her surviving children or grandchildren.

[39] The appellant provides additional representations describing the profound loss of her son and how it has affected her. She submits that this information is owed to her on a human level, given that the coaches were responsible for her son's care, and supervision was entrusted to them. She emphasizes that the person who died is her son, and that her loss is immeasurable. She believes she should have access to all the information about what happened to him to assist her in the grieving process.

[40] She also submits that her son's death was initially not properly investigated and that this resulted in findings of negligence against four police officers by the Ontario Provincial Police. In her view, this underscores the importance of having access to the coaches' statements so she may fully understand what happened.

[41] The appellant submits that her rights and her grief should supersede the privacy interests of the coaches in this case. She emphasizes that her life will never be the same. She describes her loss as unbearable and states that not a day passes that she does not think about her son. She asks that she be granted access to the audio recordings and notes for compassionate reasons because the information will assist her in understanding what happened to her son.

Analysis and findings

[42] For the reasons that follow, I find that the third step of the test is satisfied and that disclosure of the information at issue is desirable in the circumstances for compassionate reasons.

[43] Compassionate reasons have generally been found to exist where information will help a close relative with understanding the events leading up to and surrounding the death of an individual.¹⁰ In Orders MO-2237 and MO-2245, Assistant Commissioner Brian Beamish considered the interpretation of section 14(4)(c). After reviewing the legislative history, he came to the following conclusion, as stated in both Orders MO-2237 and MO-2245:

...by using the words "in the circumstances" the Legislature intended that a broad and all encompassing approach be taken to the consideration by this office of whether or not disclosure is "desirable for compassionate reasons." In my view, by enacting this amendment to the Act, the Legislature intended to address an identified gap in the access to information legislation and increase the amount of information being provided to bereaved family members. It is recognized that, for surviving family members, greater knowledge of the circumstances of their loved one's death is by its very nature compassionate.

[44] In Order MO-2237, while discussing the history of the legislative amendment to include section 14(4)(c) in the *Act*, Assistant Commissioner Brian Beamish wrote:

In 1999, this office advocated an amendment to the Act to enable relatives of deceased persons to obtain access to information regarding the circumstances of the death of their family members. In the 1999 IPC Annual Report, statutory changes were recommended. [...]

¹⁰ Order MO-2245.

In preparing the 1999 report, this office consulted with two professional psychologists practising in the area of bereavement counselling, [who] provided this office with a report which included the following statement:

For bereaved adults and children alike, understanding the full details and circumstances surrounding a loved one's death is an integral part of the grief process. As psychologists working with bereaved individuals, we are all too aware of the critical role that access to information plays in either helping or hindering the process.

Particularly, in the case of trauma, denial of factual information surrounding a loved one's death often tortures the survivor as they struggle to derive some sense of purpose and meaning in such a horrific experience. Understanding the nature and extent of the deceased injuries, how the death occurred, and the level of consciousness and pain felt has the potential to palliate the survivor's anguish.

[45] I adopt the Assistant Commissioner's general approach in Orders MO-2237 and MO-2245, and I accept that the appellant requires the information about the events surrounding her son's death as part of her grieving process. Having listened to the audio recordings, reviewed the notes and considered the appellant's full representations, I find that, in the circumstances, disclosure of the personal information which relates to the appellant's son is desirable for compassionate reasons and that the requirements of section 14(4)(c) has been satisfied.

[46] Although the coaches' statements in the audio recordings and notes were taken by the police months after the death of the appellant's son, I accept that they are the most complete account of the events that took place before his death. The loss of a child is an undeniable tragedy. In this case, the appellant's son died in unexpected circumstances and the cause was not immediately apparent to medical professionals attending at the scene. In these specific circumstances, it is reasonable to accept that the appellant would want to gather as much information as possible to try to understand the last moments of her child's life. The appellant believes that the information in the audio recordings and the notes will assist her to better understand the tragedy and come to terms with the devastating loss of her son. It is clear to me that not having access to the withheld information about what happened to her child and what he experienced in the last moments of his life is distressing for the appellant. My view is that she should have this information.

[47] In making this finding I have considered the coaches' additional submissions that the appellant has an ongoing civil lawsuit against them concerning the events recounted in the audio recordings and notes, that she has made public statements that are false and/or misrepresentative of the facts, and that she has caused them reputational harm. I note that the appellant raised concerns about the actions taken by the coaches in her representations, and that the coaches have expressed concern about what the appellant

may do with the withheld information if it is disclosed to her, including a potential civil action. I note that no specific evidence has been put before me about any civil actions underway. In any event, as stated by the adjudicator in Order MO-2404, "the prospect of legal action should not preclude the disclosure of personal information where it is otherwise desirable for compassionate reasons." Accordingly, I give little weight to any additional use the appellant might wish to put the information she receives regarding the circumstances surrounding her son's death.¹¹

[48] Having considered all the circumstances surrounding this appeal, I find that part three of the three-part test in section 14(4)(c) is met and that disclosure of the deceased's personal information to the appellant is, in the circumstances, desirable for compassionate reasons. Accordingly, I find that section 14(4)(c) applies to the information at issue in this appeal, and the disclosure of this information does not constitute an unjustified invasion of privacy of any of the affected parties. As a result, I will order the police to disclose the audio recordings and notes to the appellant under section 38(b) of the *Act*. Given these findings, it is not necessary for me to determine whether the public interest override at section 16 of the *Act* also applies to the audio recordings and the notes.

ORDER:

1. I order the police to disclose the audio recordings and the notes, to the appellant by **March 13, 2026** but not before **March 9, 2026**.
2. In order to verify compliance with this order, I reserve the right to require the police to provide me with a copy of the records disclosed pursuant to order provision 1.

Original Signed by: _____
Meganne Cameron
Adjudicator

February 5, 2026

¹¹ I also note that the audio recordings and notes reflect the coaches' version of what happened and as a result, I am not persuaded that the appellant could use this information to misrepresent facts or cause reputational harm to the coaches.