Information and Privacy Commissioner,
Ontario, Canada

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

ORDER PO-4783

Appeal PA24-00355

Ministry of the Solicitor General

January 30, 2026

Summary: The appellant sought records relating to his identification and treatment as a person of interest in a series of historical OPP investigations. The ministry granted partial access to 1018 pages of responsive records. The ministry denied him access to some of his own personal information under the discretionary exemption in section 49(a), read with certain law enforcement exemptions in section 14(1). The ministry also relied on section 49(b) to withhold personal information it believed would, if disclosed, constitute an unjustified invasion of other individuals' personal privacy. Finally, the ministry claimed that some requested information does not exist.

The adjudicator finds that the transcript and video recording of the appellant's polygraph examination are not exempt under section 49(a), read with the claimed law enforcement exemptions in section 14(1), or under section 49(b) because it would be absurd to withhold information that the appellant was aware of or provided to the police. The adjudicator therefore orders the ministry to disclose these records to the appellant. The adjudicator upholds the ministry's decision to deny access to polygraph analysis materials and an internal report on the investigations under section 49(a), read with section 14(1)(c), finding that their disclosure could reasonably be expected to reveal investigative techniques and procedures currently in use or likely to be used in law enforcement.

The adjudicator also finds that the ministry's search was not reasonable because the ministry limited it to only one relevant program area. She orders the ministry to conduct a further search in response to specific portions of the request, and provide a decision to the appellant.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, sections 2(1) (definition of "personal information"), 14(1)(c), 14(1)(g), 14(1)(h), 14(1)(i), 14(1)(l), 24, 49(a) and 49(b).

Orders Considered: Orders M-851, MO-1812, PO-2715 and PO-2569.

OVERVIEW:

[1] The appellant made an access request under the *Freedom of Information and Protection of Privacy Act* (the *Act*) to the Ministry of the Solicitor General (the ministry). He asked for records relating to his involvement in police investigations into a series of assaults and homicides that took place more than 15 years earlier.

[2] In a detailed, 15-part request,[1] the appellant explained that he was the subject of an investigation conducted by the Ontario Provincial Police (OPP) between September 2009 and March 2011. He sought access to a broad range of records, including police reports, notes, photographs, audio and video recordings, forensic analysis results, search warrants and related materials, surveillance records, and records of his interrogation and polygraph examination. The request also covered internal police communications, materials related to the alleged conduct of police officers, and records generated by a joint police task force known as "Project [H]." The appellant further sought records containing any references to him made by third parties, including the individual convicted of the crimes.

[3] The ministry located and granted partial access to responsive records consisting of, or relating to, investigative notes, occurrence reports, search warrants, property reports, technical results of hardware analysis, photographs, and a transcript and result of a polygraph examination and video.

[4] The ministry relied on several exemptions to withhold information.[2] It relied on section 49(a) read with various law enforcement exemptions in section 14(1)[3] to deny the appellant access to some of his own information. It relied on the discretionary personal privacy exemption in section 49(b) to deny access to parts of records that contain the appellant's personal information together with that of other individuals. The ministry also said that some of the requested information does not exist.[4]

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

[6] A mediator was appointed to explore resolution with the parties. During mediation, the appellant asserted that additional responsive records exist that were not identified by

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[1] The request is summarized in the Appendix attached to this order.
[2] The ministry also withheld some records on the basis that they were sealed by a judicial order.
[3] Specifically, the ministry relied on sections 14(1)(a) (interfere with law enforcement matter), 14(1)(c) (reveal investigative techniques and procedures), 14(1)(e) (endanger life or physical safety), 14(1)(g) (law enforcement intelligence information), 14(1)(h) (confiscated record), 14(1)(i) (endanger security of building, vehicle or system), and 14(1)(l) (facilitate commission of unlawful act or hamper control of crime).
[4] Such as a video recording of the day the police searched the appellant's residences (in response to parts 10, 11 and 13 of the request).

the ministry, and that there is a compelling public interest in disclosure of records that outweighs the claimed exemptions. As a result, the reasonableness of the ministry's search for records responsive to parts 10, 11, 12, 13 and 15 of the request, as well as the application of the public interest override in section 23 of the *Act*, were added as issues in the appeal.

[7] At the end of mediation, the records remaining at issue were identified in the Mediator's Report as being a polygraph video and transcript, a report the appellant describes as the "Project [H] Report," created at the conclusion of the joint task force investigation, and the names of on-duty officers that were withheld from the records. The appeal proceeded to adjudication on these issues, together with the added issues of search and the public interest override. The inquiry was transferred to me to conclude. After reviewing the appeal file and the parties' representations, I informed the parties that I would only be addressing access to the records identified in the Mediator's Report and Notices of Inquiry, as there appeared to be confusion in the representations regarding the records remaining at issue.

[8] In this order, I find that the records at issue contain personal information belonging to the appellant and other identifiable individuals. I find that the transcript and video of the appellant's polygraph examination are not exempt under section 49(a) read with the claimed law enforcement exemptions in section 14(1), or under section 49(b), due to the absurd result principle, as the personal information at issue was provided to the police by the appellant himself or discussed with him during the examination. Therefore, I order the ministry to disclose those records to the appellant.

[9] I find that the results analysis portions of the polygraph examination are exempt under section 49(a), read with section 14(1)(c), because their disclosure could reasonably be expected to reveal investigative techniques and procedures currently in use or likely to be used in law enforcement. On that basis, I uphold the ministry's decision to deny access to those pages. I also find that the Project H Report is exempt under section 49(a), read with section 14(1)(c), and uphold the ministry's decision to deny access to it.

[10] Finally, I find that the ministry's search was reasonable in part: I find that its search within the program area that it searched was reasonable, but that its decision to limit its search to one program area was not. I therefore order the ministry to conduct a further search for records responsive to parts 10, 11, 12, 13 and 15 of the request.

[11] I do not consider the application of the public interest override in section 23, because it does not apply to records that are exempt under section 49(a) or section 14(1). I also do not consider access to page 750 (the appellant's consent form to undergo the polygraph examination) because the ministry confirmed in its representations that it will disclose this page to the appellant.

RECORDS:

[12] At issue is access to a polygraph test video and results, the Project H Report, and the names of the on-duty police officers that the ministry withheld from responsive records.

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 exemption in section 49(a), allowing the ministry to refuse access to a requester's own personal information, read with the section 14(1) exemption for law enforcement records, apply to the information at issue?

C. Does the discretionary personal privacy exemption in section 49(b) apply to the polygraph transcript and video?

D. Was the ministry's search for responsive records reasonable?

DISCUSSION:

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

[13] Before considering whether a personal privacy exemption applies, I must determine whether the records contain "personal information" as defined in section 2(1) of the *Act*. If they do, I must determine to whom it belongs.

[14] Section 2(1) defines "personal information" as "recorded information about an identifiable individual." Information is about an individual when it relates to them in their personal capacity, reveals something of a personal nature about them, or could reasonably be expected to identify them, either on its own or when combined with other information in the records.[5] Section 2(1) contains examples of personal information.

[15] There is no dispute that the records contain personal information belonging to the appellant and other identifiable individuals.

[16] The polygraph records contain primarily the appellant's personal information. This includes his name, age, medical history, address and other identifying details, as well as his views, opinions, statements to police, and details about the circumstances leading to

[5] Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v Pascoe*, 2002 CanLII 30891 (On CA), O.J. No. 4300 (C.A.).

his participation in the polygraph examination. This information qualifies as personal information under paragraphs (a), (b), (d), (e) and (h) of the definition of that term in section 2(1). These records also contain personal information of other individuals, such as names and associated details provided by or discussed with the appellant during the polygraph process. I find that this qualifies as their personal information under paragraph (h) of the definition in section 2(1), which includes an individual's name where it appears with other personal information about them.

[17] The Project H Report includes the names of the appellant and other individuals, along with brief references to their connection to the underlying investigation. This also qualifies as personal information under paragraph (h) of the definition.

[18] Finally, the records identify police officers involved in the investigation. The ministry concedes, and I find, that this information does not qualify as "personal information" under the *Act* when it relates to officers acting in a professional or official capacity.

Issue B: Does the discretionary exemption in section 49(a), allowing the ministry to refuse access to a requester's own personal information, read with the section 14(1) exemption for law enforcement records, apply to the information at issue?

[19] Section 49(a) is a discretionary exemption that allows an institution to refuse access to an individual's own personal information if one or more other exemptions would apply to that information. In this case, because the records at issue contain the appellant's personal information, and the ministry relies on the discretionary law enforcement exemption in section 14(1), I must consider the application of section 14(1) through the lens of section 49(a).

[20] Specifically, the ministry relies on section 49(a), read with sections 14(1)(c), (g), (h), (i), and (l), which permit the ministry to refuse access where disclosure could reasonably be expected to:

> (c) reveal investigative techniques and procedures currently in use or likely to be used in law enforcement;
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> (g) interfere with the gathering of or reveal law enforcement intelligence information respecting organizations or persons;
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> (h) reveal a record which has been confiscated from a person by a peace officer in accordance with an Act or regulation;
>
> (i) endanger the security of a building or the security of a vehicle carrying items, or of a system or procedure established for the protection of items, for which protection is reasonably required; [or]

> (l) facilitate the commission of an unlawful act or hamper the control of crime.

[21] For any of these exemptions to apply, the ministry must provide evidence that disclosure "could reasonably be expected to" result in the type of harm described in each. As the party resisting disclosure, the ministry must demonstrate that the risk of harm is real and not merely speculative.[6] While the ministry is not required to prove that harm will in fact occur, it must establish a reasonable expectation of harm. The amount and type of evidence required will depend on the context of the request and the seriousness of the consequences of disclosing the information.[7]

[22] The law enforcement exemptions must be approached with sensitivity, because future events in the law enforcement context are hard to predict, and so care must be taken not to harm ongoing law enforcement investigations.[8] However, institutions cannot rely on broad, speculative or conclusory statements about potential harm. They must provide detailed evidence about the risk of harm if a record is disclosed.

[23] In some cases, harm may be inferred from the records themselves or the surrounding context. It is not sufficient for an institution, however, to simply restate the language of the exemption or to assume that the harms in section 14(1) are self-evident and can be proven simply by repeating the description of harms in the *Act*.[9]

Representations, analysis and findings

Sections 14(1)(g), (h) and (i)

[24] These exemptions are intended to protect specific law enforcement interests, namely covert intelligence gathering activities (section 14(1)(g)), records confiscated by law enforcement (section 14(1)(h)), and the security of law enforcement infrastructure, including systems and procedures used to protect information or assets (section 14(1)(i)).

[25] In its representations, the ministry reiterates the wording of these exemptions and refers generally to records such as search warrants, materials seized during their execution, and records that may contain sensitive database or infrastructure-related information. While such records may attract the exemptions in sections 14(1)(g), (h) or (i), depending on their content and context, these are not the records before me in this appeal.

[26] The ministry has not explained how the records at issue relate to covert intelligence gathering, confiscated or seized materials, or law enforcement systems or

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[6] *Merck Frosst Canada Ltd. v Canada (Health)*, 2012 SCC 3 (CanLII), [2012] 1 S.C.R. 23.
[7] *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.
[8] *Ontario (Attorney General) v Fineberg* (1994), 19 O.R. (3d) 197 (Div. Ct.)
[9] Orders MO-2363 and PO-2435.

infrastructure. For example, the ministry refers throughout its representations to the sensitivity of CPIC[10] data, internal police codes and similar law enforcement systems, but does not identify where, or even if, this type of information appears in the remaining records before me. Based on my review of these records, I do not find that their disclosure would reveal information of the type that these exemptions are intended to protect.

[27] Accordingly, I find that sections 14(1)(g), (h) and (i) do not apply to the records at issue, and I will not consider these exemptions further.

[28] I next turn to the exemptions the ministry has applied to the specific records before me.

Section 14(1)(c): reveal investigative techniques and procedures

[29] For section 14(1)(c) to apply, the ministry must show that disclosing information in the records could reasonably be expected to reveal investigative techniques or procedures currently in use or likely to be used in law enforcement, and that this disclosure could reasonably be expected to interfere with their effective use. The technique or procedure must be "investigative" in nature, relating to the process of investigation rather than to enforcement.[11] The IPC has generally interpreted section 14(1)(c) as protecting techniques or procedures currently used that are not widely known or publicly documented.[12]

[30] The ministry submits that the polygraph records contain investigative techniques and procedures currently used by the OPP and potentially other law enforcement agencies to collect and analyze information during criminal investigations. It argues that this information is not generally known to the public, and that disclosure could reasonably be expected to hinder its effective use in future investigations. It also raises concerns about the lack of restrictions on the appellant's use of records disclosed under the *Act*, stating that individuals could use the information to subvert investigations or evade prosecution.

[31] The appellant argues that the ministry's representations consist of general assertions and fail to demonstrate a credible current risk of harm under section 14(1)(c).

[32] For the purposes of my analysis under section 14(1)(c), I have divided the records into three categories: (i) the polygraph transcript (pages 546-728) and video; (ii) the polygraph analysis pages (pages 729-749 and 751-764); and (iii) the Project H Report (pages 1070-1089).[13] I address them separately because, as I explain below, I find that

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[10] Canadian Police Information Centre.
[11] Orders P-1340 and PO-2034.
[12] The ministry's representations address records that are not at issue, namely "search warrants, forensic analyses, exhibit registers [and] operation plans." Where representations discuss issues outside the records at issue for adjudication as set out in the Mediator's Report and Notices of Inquiry, I have not summarized those here as the records to which these submissions relate are not before me in this appeal.
[13] Page numbers are based on the records the ministry provided to the IPC in August 2025 in response to a Notice of Inquiry.

only the polygraph analysis pages and the Project H Report are exempt under section 49(a) read with section 14(1)(c).

The polygraph transcript (pages 546-728) and video

[33] The ministry has not provided evidence to support a finding that disclosing the transcript or video of the appellant's own examination could reasonably be expected to compromise the effectiveness of future polygraph examinations or law enforcement investigations. Although it raises general concerns about potential misuse of disclosed information, the ministry does not point to any technique, line of questioning or investigative method in the transcript or video that could reasonably be expected to be compromised by disclosure. The ministry's representations restate the exemption's wording without providing record-specific evidence. The asserted harms are also not apparent from my review of these records.

[34] Prior IPC orders have found that polygraph records, including video and results, are not exempt under section 49(a) read with section 14(1)(c). In Orders PO-2715 and MO-1812, cited by the appellant, the IPC held that these types of records do not reveal techniques or procedures that are not already well known, and that their disclosure would not undermine the effectiveness of polygraph testing. I adopt that reasoning here.

[35] In Order M-851, also cited by the appellant, the IPC found that a video of a polygraph examination was not exempt under the municipal equivalent of section 14(1)(c). The adjudicator found that the appellant in that case was already aware of the questions, answers and context, and that, although polygraph testing forms part of the investigative process, the video did not reveal techniques or procedures in a manner that could reasonably be expected to interfere with their effective use.

[36] I also adopt the reasoning in Order M-851 here. The appellant is the subject of the polygraph examination, and the transcript and video reflect information he already knows, including the results. I am not persuaded that disclosure could reasonably be expected to reveal investigative techniques or procedures in a way that could compromise their use, particularly given the age of the investigation.

[37] Accordingly, I find that the polygraph transcript and video are not exempt under section 49(a), read with section 14(1)(c).

The polygraph analysis pages (pages 729-749 and 751-764) and the Project H Report (pages 1070-1089)

[38] The remaining records at issue are the polygraph analysis pages and the Project H Report.

[39] The ministry does not make specific representations addressing the application of section 14(1)(c) to these records. Its representations discuss the polygraph records broadly and state that the appellant has not cited any IPC authority ordering disclosure

of an entire polygraph report.

[40] As noted above, harms under section 14(1) must be established on the facts of each case, and institutions must provide detailed, record-specific evidence to support their claims, rather than rely on general assertions.

[41] That said, the IPC and the courts have recognized that, in limited circumstances, the content of a record itself may support the application of a harm-based exemption, where the risk of harm is apparent on its face.[14] I find that to be the case here.

[42] The polygraph analysis pages include the examiner's or others' assessment of the appellant's responses, including physiological charts, interpretive notes, and observations. In my view, these pages reveal how polygraph data are used and assessed in an investigative context, and I have no basis for concluding that these techniques are no longer in use.

[43] The Project H Report appears to be an internal evaluation of a complex criminal investigation. It consists of an executive summary and debrief, and reflects discussion and internal analysis of investigative approaches, operational practices, and coordination strategies, prepared at least in part to inform future investigations. Like the polygraph analysis pages, it contains internal evaluative material that reflects law enforcement decision-making and investigative strategy.

[44] Based on my review, I am satisfied that both the polygraph analysis pages and the Project H Report contain information that, if disclosed, could reasonably be expected to interfere with the effective use of investigative techniques and procedures currently in use. I find that these records themselves demonstrate the type of harm that section 14(1)(c) is intended to prevent.

[45] Accordingly, I find that the polygraph analysis pages (pages 729-749 and 751-764) and the Project H Report (pages 1070-1089) are exempt under section 49(a), read with section 14(1)(c). I uphold the ministry's decision to withhold them.

The ministry's exercise of discretion under section 49(a) read with section 14(1)(c)

[46] In withholding the records under section 49(a) read with section 14(1)(c), the ministry states that it weighed the purposes and principles of the *Act*, the appellant's right of access to his own personal information, and the importance of protecting sensitive law enforcement information. It also submits that it re-exercised its discretion during the inquiry by expressing in its representations a willingness to disclose additional

[14] See, for example, *Ontario (Community Safety and Correctional Services) v Ontario (Information and Privacy Commissioner)*, 2014 ONCA 31. At paragraph 50. The Court of Appeal held that "There may well be cases in which it is clear from the records themselves that the harms under section 14(1) could reasonably be expected to occur upon disclosure. In such cases, detailed and convincing evidence may not be required."

information.

[47] The appellant argues that the ministry acted in bad faith in processing his request, pointing to differences between the handling and outcome of his request and what he submits are other similar requests.

[48] The ministry's treatment of other access requests is not determinative in assessing whether it properly exercised its discretion to withhold these records in this case. I find no evidence before me that the ministry acted in bad faith or failed to consider relevant factors in exercising its discretion to deny access to the polygraph analysis pages or the Project H Report, or that it did so inappropriately. I therefore uphold the ministry's exercise of discretion to withhold these records under section 49(a), read with section 14(1)(c).

Section 14(1)(l): facilitate the commission of an unlawful act or hamper the control of crime

[49] Given my findings that the analysis pages and Project H Report are exempt under section 49(a) read with section 14(1)(c), I do not have to consider whether section 14(1)(l) also applies to them. I will therefore consider next whether section 14(1)(l), on which the ministry also relies, applies to the polygraph transcript and video.

[50] The ministry relies on section 14(1)(l), submitting that disclosure could reasonably be expected to facilitate unlawful activity or interfere with efforts to control it. The ministry refers generally to police codes, investigative techniques and procedures, and law enforcement intelligence, arguing that disclosure could undermine the confidentiality necessary for effective police operations and intelligence gathering, and expose vulnerabilities to potential exploitation.

[51] Section 14(1)(l) is intended to protect information that, if disclosed, could reasonably be expected to assist individuals in committing crimes or impede law enforcement's ability to control criminal activity. While this exemption may apply in appropriate circumstances to protect sensitive operational information, I find that the ministry has not established its application to the polygraph transcript and video.

[52] The ministry's representations refer broadly to operational concerns but do not identify or address specific content in the polygraph transcript or video that could reasonably be expected to facilitate criminal activity or interfere with efforts to control it. As noted earlier, the records document the appellant's own examination and consist primarily of his statements and interactions with police. On their face, they do not reveal sensitive techniques or operational details that, in my view, would give rise to the type of harm section 14(1) is intended to prevent.

[53] Accordingly, I find that the polygraph transcript and video are not exempt under section 49(a), read with section 14(1)(l).

Issue C: Does the discretionary personal privacy exemption at section 49(b) apply to the polygraph transcript and video?

[54] Section 49(b) of the *Act* gives institutions the discretion to withhold personal information relating to the requester if its disclosure would constitute an unjustified invasion of another individual's personal privacy. In determining whether this discretionary exemption applies, the institution must consider factors set out in section 21(2),[15] as well as the presumptions in section 21(3).[16] The institution must also consider whether the "absurd result" principle applies.

[55] The ministry relies on the factors in sections 21(2)(f) and (h), which weigh against disclosure where information is highly sensitive or was supplied in confidence. It also relies on the presumption in section 21(3)(b), which applies where personal information was compiled and is identifiable as part of an investigation into a possible violation of law.[17]

[56] Based on my review of the polygraph transcript and video, and consideration of the factors and presumptions in sections 21(2) and (3), I might be prepared to find that the withheld personal information of other individuals appearing in these records could, in the ordinary course, qualify for exemption under section 49(b).

[57] However, as I find below that the absurd result principle applies in this case, I do not need to consider or weigh these factors and presumptions.[18]

The absurd result principle

[58] The IPC has recognized that an institution may not be able to rely on the section 49(b) exemption where the requester originally supplied the information in the record, or is otherwise aware of it. In such circumstances, withholding the information may be inconsistent with the purpose of the exemption and lead to an absurd result.[19] The absurd result principle has been applied where, for example, a requester sought access to their own witness statement,[20] was present when the information was provided to the institution,[21] or the information was or is clearly within their knowledge.[22]

[59] Above I have found that the polygraph transcript and video contain primarily the appellant's own personal information, along with personal information about other individuals discussed with or provided by the appellant to the police during the

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[15] Unlisted factors must also be considered.
[16] As well as any exceptions in section 21(4), which do not apply here.
[17] If these considerations apply and outweigh any factors favouring disclosure, the information is exempt, subject to the absurd result principle.
[18] Or any relevant factors not listed in section 21(2).
[19] Orders M-444 and MO-1323.
[20] Orders M-444 and M-451.
[21] Orders M-444 and P-1414.
[22] Orders MO-1196, PO-1679 and MO-1755.

examination. Because these records are of the appellant's own examination, and because the information either originated from the appellant or is already known to him, I find that withholding it would lead to an absurd result. I therefore find that the absurd result principle applies and that section 49(b) does not exempt these records from disclosure.

Issue D: Did the ministry conduct a reasonable search for responsive records?

[60] The appellant claims that additional records exist beyond those identified by the ministry. As a result, I must decide whether the ministry conducted a reasonable search for records as required by section 24 of the *Act*.[23] For the reasons that follow, I find that the ministry has not provided sufficient evidence to establish that it made a reasonable effort to identify and locate all responsive records within its custody or control.[24]

[61] Section 24(1) requires a requester to provide sufficient detail to enable an experienced employee of the institution to identify responsive records upon a reasonable effort. Section 24(2) places a corresponding duty on institutions to assist requesters where requests may be unclear or lack sufficient detail.

[62] The *Act* does not require the ministry to prove with certainty that no further records exist.[25] However, the ministry must provide sufficient evidence to show that it made a reasonable effort to identify and locate responsive records within its custody or control.[26] A reasonable search is one in which an experienced employee knowledgeable in the subject matter of the request expends a reasonable effort to locate records which are reasonably related (i.e. responsive) to the request.[27]

[63] Although the appellant is not expected to identify precisely which records the ministry has not identified, he still must provide a reasonable basis for concluding that such records exist.[28]

Representations

[64] In support of its assertion that it conducted reasonable searches, the ministry provides an affidavit sworn by an Exhibit Control Officer and Vault Coordinator (EVO/VC) for the OPP's Criminal Investigation Branch (CIB). This individual described their length of employment, and responsibility for maintaining and securing CIB-related case files and exhibits and responding to access requests directed to the CIB.

[65] According to the affidavit, the search covered locations within the CIB where responsive records would reasonably be expected to be found, including servers, hard drives, automated systems, property vaults, archived files and paper records, including

[23] Orders P-85, P-221 and PO-1954-I.
[24] Order MO-2185.
[25] *Youbi-Misaac v Information and Privacy Commissioner of Ontario*, 2024 ONSC 5049 at para 9.
[26] Orders P-624 and PO-2559.
[27] Orders M-909, PO-2469 and PO-2592.
[28] Order MO-2246.

12 boxes of physical files, and digital and physical storage used by officers. The affidavit also acknowledges that one responsive video[29] had been accidentally deleted by a now-retired individual and could not be retrieved.

[66] The ministry also submits that:

> …when responding to an FOI access request, the Ministry responds to requests for records of one program area at a time. The appellant's request was primarily directed at records held by the Criminal Investigation Branch. If the appellant wishes to receive records from the Centre of Forensic Sciences ("CFS"), the Appellant should complete a separate FOI request addressing only CFS records.

[67] The appellant submits that the ministry did not conduct a reasonable search for records responsive to parts 10, 11, 12, 13 and 15 of the request. This includes those parts of the request (10, 12 and 13) for which the ministry claims no records exist.

[68] The appellant submits that the ministry has not made apparent efforts to search other program areas, such as the CFS, despite his having requested forensic records. He submits that it was unreasonable for the ministry in the circumstances to confine its search to repositories controlled only by the CIB. He raises concerns about discrepancies between this request and records retrieved by other requests,[30] and submits that the lost video raises concern that other records may also have been lost or unaccounted for.

Analysis and findings

[69] I uphold the ministry's search as reasonable in part.

[70] Based on the ministry's affidavit, I am satisfied that the ECO/VC is an experienced employee with knowledge of the CIB's record holdings, and that he made a reasonable effort to locate responsive records held by the CIB. I accept the ministry's position that the loss of one video does not render its search unreasonable.

[71] However, I also accept the appellant's position that his request for records relating to forensic analysis, for example, could reasonably include records held by the CFS. Despite this, the ministry submits that it limited its search to the CIB and did not search other apparently or possibly relevant program areas, such as the CFS. As a result, I find that the ministry did not conduct a reasonable search for records responsive to parts 10, 11, 12, 13 and 15 of the request.

[72] The ministry's explanation that it responds to access requests "one program area at a time," and that the appellant may submit a new request for CFS records is, in my view, inconsistent with the *Act's* access scheme. The IPC has held that institutions must

[29] In response to part 4(e) of the request.
[30] Made by the appellant and another individual.

search all locations where responsive records could reasonably be expected to exist. This includes searching across relevant program areas, not just the one the institution views as the request's primary focus.[31] Internal practices, such as responding to access requests by searching one program area at a time, cannot displace an institution's statutory obligation to search for all records that "reasonably relate" to the request. In Order PO-2569, on which the appellant relies, the IPC found that limiting a search to a single program area without exploring other likely repositories, can render the search unreasonable. I accept this reasoning here and find that, where the request implicates more than one program area, the ministry's decision to search only one was not reasonable.

[73] While it may be that no additional responsive records exist, the issue before me is whether the ministry's search was reasonable in the circumstances. I cannot uphold a search as reasonable when the ministry's own representations confirm that another relevant program area may hold responsive records but that the ministry searched only one. Without evidence that the ministry searched all relevant program areas, I cannot find that the ministry has met its obligation to conduct a reasonable search under section 24.

[74] For these reasons, I will order it to conduct a search in response to parts 10, 11, 12, 13 and 15.

ORDER:

1. I uphold the ministry's decision in part.

2. I uphold the ministry's decision to deny access to the polygraph analysis pages (pages 729-749 and 751-764) and the Project H Report (pages 1070-1089) under section 49(a), read with section 14(1)(c).

3. I order the ministry to disclose the appellant's polygraph examination transcript (pages 546-728) and video to the appellant, by providing a copy to the appellant by no later than **March 7, 2026**, but not before **March 2, 2026**.

4. In order to verify compliance with order provision 3, I reserve the right to require the ministry to provide me with a copy of the records disclosed to the appellant.

5. I order the ministry to conduct a further search for records responsive to parts 10, 11, 12, 13 and 15 of the request.

6. In the event that the ministry locates responsive records in its new search(es), or if it does not locate responsive records, the ministry shall issue an access decision to the appellant, in accordance with the requirements of the *Act*. The ministry shall

[31] Orders P-624, PO-2559, PO-3639, PO-3987, and PO-4283.

treat the date of this order as the date of the request for administrative purposes, without recourse to a time extension.

Original Signed by: January 30, 2026

Jessica Kowalski
Adjudicator

APPENDIX

Summary of the request

The 15-part request is summarized as follows:

1. **Street canvas (Sep – Oct 29, 2009)**: OPP reports and notes pertaining to the appellant during a canvass of his street, and the questionnaire used by officers to conduct the canvas.

2. **Information to Obtain (Oct 2009)**: The Information to Obtain drafted after the identification of the appellant as a person of interest. All reports, notes, audio recordings and written communications pertaining to interview of three named individuals between October 21 and October 29, 2009.

3. **Surveillance (Oct 2009)**: All reports, notes, video recordings, photographs pertaining to surveillance of the appellant's property, including specifically relating to the search of the appellant's trash for discarded evidence and DNA samples, and any subsequent forensic analysis, from October 21 to October 29, 2009.

4. **Search Warrant (Oct 2009)**: The complete search warrant, including all appendices, and all reports, notes, photographs and video recordings related to its preparation and execution.

5. **Items seized**: All reports, notes and photographs pertaining to seized items, including any forensic analysis of the seized items.

6. **Interrogation**: All reports, notes, photographs, video recording, and transcript pertaining to the appellant's interrogation, conducted on a specific date, including pertaining to the taking of the appellant's fingerprints.

7. **DNA Analysis**: All reports, notes and photographs pertaining to the appellant's DNA sample. All reports and notes pertaining to the comparison of the appellant's DNA sample to the DNA found at three crime scenes.

8. **Waiting for the Polygraph (Oct – Nov 2009)**: For the specified period, any additional reports and notes pertaining to the investigation not responsive to the two previous sections. All reports and notes related to the targeting of the appellant's son.

9. **The Polygraph Test**: The video recording, results, notes and reports pertaining to the appellant's polygraph test taken on a specific date, including pertaining to the appellant's discussion with a named detective in the bathroom following the polygraph test, as well as any discussions with any other officer.

10. **A specific homicide investigation**: All reports and notes pertaining to the appellant in relation to the investigation into the murder of a specific individual. All communications between two OPP detachments into specified sexual assault investigations by one of the detachments, and the appellant's role as a suspect.

11. **Continuation of a specific investigation after the Polygraph**: All reports, notes, photographs and video recordings pertaining to the continuation of the investigation and surveillance of the appellant or his property after November 2009. All reports and notes pertaining to discussion amongst OPP officers in a specific detachment about whether to continue investigating the appellant. All reports and notes pertaining to an altercation between certain OPP officers and any subsequent disciplinary actions. All reports and notes pertaining to demotion of a specified detective.

12. **The disappearance of a named individual**: All notes, reports, video recordings and photographs pertaining to the appellant's identification as a person of interest in the disappearance of a named individual. All reports and notes pertaining to the re-examination of the appellant's involvement in a specific assault, or the re-processing of old evidence obtained during a specific investigation.

13. **Being framed**: All reports, notes and audio recordings pertaining to discussions between detectives and a named individual mentioning the appellant in any capacity during an interrogation, or in any subsequent discussion. All reports, notes and photographs pertaining to items stolen from the appellant's garage that were recovered from the crime scene or at either of a named individual's properties.

14. **Project H.:** All reports and notes pertaining to the appellant in the Project H debrief and report. All audio recordings from the debrief pertaining to the OPP's investigation of the appellant.

15. **Email and communications**: All emails, email threads, call logs, and communications pertaining to the investigation into the appellant or bearing the appellant's personal information in any way between September 2009 and March 2011.