

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER MO-4775

Appeal MA23-00116

London Police Services Board

March 5, 2026

Summary: An individual made a request under the *Municipal Freedom of Information and Protection of Privacy Act* for records relating to thefts of her car, as well as records relating to calls that she and her neighbours made to the police.

The police granted partial access to records, withholding some information on the basis of the law enforcement exemption (section 38(a), read with section 8(1)(l)) and because disclosure would constitute an unjustified invasion of another individual's personal privacy (section 38(b)). The police also withheld other information on the basis that it was non-responsive to the request. The individual appealed the police's access decision and also took issue with the reasonableness of the police's search.

In this order, the adjudicator finds that the police properly withheld the information and conducted a reasonable search. She upholds the police's decision and dismisses the appeal.

Statutes Considered: *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, sections 2(1) (definition of "personal information"), 8(1)(l), 14(2)(h), 14(3)(b), 17, 38(a), and 38(b).

Orders Considered: Orders MO-3773, PO-1665, PO-3742, and PO-4778.

OVERVIEW:

[1] This order determines whether the London Police Services Board (the police) properly withheld information from police records, including call hardcopies and officers'

notes, under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*). It also considers whether the police conducted a reasonable search for records.

[2] The police received a request made under the *Act* for records relating to thefts of the requester's car, which she alleges took place between 2008 and 2010. The requester also asked for the following:

Year was in 2011 – 2012 at [specified address]. Police were called numerous times by myself and by some of these neighbours and there will be more than one neighbour involved. The time period would be [specified time period] which is the date I moved from this location. Could you please send all records. If there are any other calls that I made in other years by chance please send them too. I left London, Ontario in [specified month and year].

[3] The police issued a decision explaining that pursuant to its Records Retention Policy, "[a]ny occurrences related to trouble with others are retained for three years and have been purged since the timeframe [the requester] requested". Nevertheless, the police indicated that they located "a few of the initial calls that were made regarding these occurrences, and have included any responsive records we found".

[4] The police granted partial access to the responsive records, citing sections 38(a) (discretion to refuse requester's own information), read with sections 8(1)(d) (confidential source of information) and 8(1)(l) (facilitate commission of an unlawful act), as well as section 38(b) (personal privacy) to deny access to some information. The police also advised that some information was removed from the records as it is non-responsive to the request.

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

[6] During mediation, the appellant confirmed that she was seeking access to all of the information withheld pursuant to sections 38(a) and 38(b), and some of the information removed as non-responsive to the request. The appellant also indicated that she believes additional responsive records should exist.

[7] As mediation did not resolve the appeal, the file was transferred to the adjudication stage of the appeal process, where the adjudicator may conduct an inquiry under the *Act*.

[8] The adjudicator originally assigned to the appeal sought and received representations from the police and the appellant. The appeal was subsequently transferred to me and I determined that I did not need to hear from the parties further before issuing this decision.

[9] For the reasons that follow, I uphold the police's decision to withhold information identified as non-responsive, as well as their decision to withhold portions of the records

pursuant to the exemptions at section 38(a), read with 8(1)(l), and section 38(b). I also uphold the police's search and dismiss the appeal.

RECORDS:

[10] The records remaining at issue consist of police reports and officers' notes, as set out in the following chart:

Description of record	Page numbers at issue	Exemption(s)
Call hardcopy for January 31, 2012 incident	3, 4	38(a), read with 8(1)(l)
Officer 1 notes	6	38(a), read with 8(1)(l); non-responsive
Call hardcopy for January 3, 2007 incident	9	38(a), read with 8(1)(l)
Officer 2 notes	11	Non-responsive
Call hardcopy for June 2, 2011 incident	15	38(a), read with 8(1)(d) and 8(1)(l); 38(b)

ISSUES:

- A. Is the information removed from pages 6 and 11 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 an institution to refuse access to a requester's own personal information, read with the law enforcement exemption at section 8(1)(l), apply to the information at issue?
- E. Did the police exercise their discretion under sections 38(a) and 38(b)? If so, should the IPC uphold the exercise of discretion?
- F. Did the police conduct a reasonable search for records?

PRELIMINARY MATTER:

[11] In her representations, the appellant indicates that she believes that there is a conflict of interest. Specifically, the appellant states that she believes “there is a conflict of interest in this government and in this office to me”.

[12] A “conflict of interest” is commonly understood as a situation in which a person, such as an elected official or public servant, has a private or personal interest sufficient to appear to influence the objective exercise of his or her official duties.

[13] Previous orders have considered the issue of conflict of interest or bias.¹ In determining if there is a conflict of interest, these orders considered the following:

- Did the decision-maker have a personal or special interest in the records?
- Could a well-informed person, considering all of the circumstances, reasonably perceive a conflict of interest on the part of the decision-maker?

[14] These questions are not intended to provide a precise standard for measuring whether or not a conflict of interest exists in a given situation. Instead, they reflect the kinds of issues that need to be considered in making such a determination.

[15] In this case, the appellant does not identify which individual(s) she believes is in a conflict of interest or what the conflict might be. The appellant also does not explain how this alleged conflict of interest has influenced the exercise of the individual(s) official duties, beyond simply claiming that she believes there is additional information that the police are withholding from her.

[16] The appellant has not explained why or whether she believes that the police or the IPC have a personal or specific interest in the records. Given the limited information that the appellant has provided on this issue, I find that a well-informed person, considering all of the circumstances, would not reasonably perceive a conflict of interest on the part of the decision-maker.

[17] As a result, I find that the appellant has not provided enough evidence to establish that there is a conflict of interest, either on the part of the police or the IPC.

DISCUSSION:

Issue A: Is the information removed from pages 6 and 11 responsive to the request?

[18] The police withheld some information from officers’ notes (appearing on pages 6

¹ See, for example, Orders M-640, MO-1285, MO-2605, MO-3208, MO-2867 and PO-2381.

and 11 of the records package) as non-responsive to the appellant's request. The appellant indicates that she is seeking access to this information.

[19] 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,

(a) make a request in writing to the institution that the person believes has custody or control of the record, and specify that the request is being made under this Act;

(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).

[20] To be considered responsive to the request, records must "reasonably relate" to the request.² Institutions should interpret requests liberally, in order to best serve the purpose and spirit of the *Act*. Generally, ambiguity in the request should be resolved in the requester's favour.³

Representations

[21] The police submit that the appellant's request was clear and provided sufficient detail to allow them to identify the responsive records. The police submit that the information that they removed from the officers' notes on pages 6 and 11 of the records package are about investigations and actions unrelated to the appellant or the appellant's calls for police assistance and are therefore not responsive to the appellant's request.

[22] The appellant does not reference the issue of responsiveness in her representations, but confirms that she only wants "the incidences that police were called and the circumstances involved".

Analysis and findings

[23] I have reviewed the officers' notes and find that the information that the police withheld on pages 6 and 11 of the records package is non-responsive to the appellant's request. The withheld information consists of information that is not related to the

² Orders P-880 and PO-2661.

³ Orders P-134 and P-880.

appellant or the appellant's address and is therefore not reasonably related to the request.

[24] Accordingly, I uphold the police's decision to withhold some information from the officers' notes on the basis that this information is 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?

[25] The police rely on the discretionary personal privacy exemption at section 38(b) of the *Act* to deny access to a portion of the call hardcopy for the June 2, 2011 incident. The police also rely on the discretionary exemption at section 38(a), read with the law enforcement exemptions at sections 8(1)(d) and 8(1)(l), to deny access to some information in the three call hardcopies and Officer 1's notes.

[26] Before I consider whether these exemptions apply, I must first determine whether the records contain "personal information". If they do, I must determine whether the personal information belongs to the appellant, to an affected party, or both.

[27] It is important to know whose personal information is in the records. If the records contain the requester's own personal information, their access rights are greater than if they do not.⁴ Also, if the records contain the personal information of other individuals, one of the personal privacy exemptions might apply.⁵

[28] Section 2(1) of the *Act* defines "personal information" as "recorded information about an identifiable individual". Recorded information is information recorded in any form, including paper and electronic records.⁶

[29] Information is "about" an individual when it refers to them in their personal capacity, meaning that it reveals something of a personal nature about that individual. Information is about an "identifiable individual" if it is reasonable to expect that an individual can be identified from the information either by itself or if combined with other information.⁷

[30] Section 2(1) of the *Act* contains some examples of personal information⁸, though this list is not exhaustive. Therefore, information that does not fall under paragraphs (a)

⁴ 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.

⁵ See sections 14(1) and 38(b).

⁶ See the definition of "record" in section 2(1) of the *Act*.

⁷ Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.).

⁸ Specifically, paragraphs (a) to (h) of the definition of personal information at section 2(1).

to (h) may still qualify as personal information.

Representations

[31] The police submit that the call hardcopy for the June 2, 2011 incident contains the personal information of the appellant and an affected party, including names, addresses, telephone numbers, and statements. The police also submit that the other records contain the appellant's personal information only.

[32] The appellant does not explicitly state whose personal information might be in the records, but appears to accept that the records contain her own personal information, as well as the information of affected parties. For instance, the appellant states that the police can redact the names of any affected parties that are involved.

Analysis and findings

[33] I have reviewed the records and find that the call hardcopy for the June 2, 2011 incident contains both the appellant's and an affected party's personal information as defined by section 2(1) of the *Act*, including addresses (paragraph (d) of the definition of personal information in section 2(1)), telephone numbers (paragraph (d)), and statements made to police officers (paragraphs (e) and (g)). The affected party is identifiable from the information in the call hardcopy and this information is personal in nature.

[34] The appellant submits that the police can redact the personal information of any affected parties and disclose only the information relating to the "incidences that police were called and the circumstances involved". I have considered whether the affected party's personal information can be severed from the call hardcopy in such a way that would allow additional information to be disclosed. Based on my review of the call hardcopy, I find that the affected party and the appellant's personal information is inextricably linked and that additional severances are not feasible. Because of how the affected party and the appellant's personal information is intertwined, the appellant's personal information cannot be reasonably separated from the other information contained within the record.

[35] I also agree with the police and find that the call hardcopy for the January 31, 2012 incident, the call hardcopy for the January 3, 2007 incident, and Officer 1's notes contain the appellant's personal information only, including her address, telephone number, and statements that she made to police officers.

[36] Having found that all of the records contain the appellant's personal information, I will consider the police's application of the discretionary exemptions at section 38(a) and section 38(b) to the information remaining at issue.

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

[37] 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 exemptions from this right.

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

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

[40] 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).

[41] 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.

[42] The parties do not rely on any of the section 14(1)(a) to (e) exceptions or on section 14(4) and I find that they do not apply in this appeal.

[43] In determining whether the disclosure of the personal information would be an unjustified invasion of personal privacy under section 38(b), I must consider and weigh the relevant factors and presumptions in sections 14(2) and (3) and balance the interests

of the parties.⁹

Representations

[44] The police submit that the personal information in the June 2, 2011 call hardcopy was compiled as part of an investigation into a possible violation of law, engaging the presumption in section 14(3)(b). The police also submit that the factor at section 14(2)(h) (supplied in confidence) applies and weighs against disclosure of the withheld information.

[45] The appellant does not provide substantive representations on the application of the exemption at section 38(b), including the section 14(2) factors or the section 14(3) presumptions, but submits that she is seeking access to information about the “incidences that police were called and the circumstances involved”.

Analysis and findings

[46] For the reasons that follow, I find that disclosure of some of the information withheld from the June 2, 2011 call hardcopy would constitute an unjustified invasion of the affected party’s personal privacy and therefore, this information is exempt under section 38(b).

Do any of the presumptions listed in 14(3) apply?

[47] As previously stated, the police claim that the section 14(3)(b) presumption against disclosure applies to the information at issue. Section 14(3)(b) states:

(3) A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy if the personal information,

(b) was compiled and is identifiable as part of an investigation into a possible violation of law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation[.]

[48] Even if no criminal proceedings were commenced against an individual, as is the case in this appeal, section 14(3)(b) may still apply. The presumption only requires that there be an investigation into a possible violation of law.¹⁰

[49] The police submit that they are a law enforcement agency with the responsibility, under the *Police Services Act*, of investigating offences, including offences under the *Criminal Code of Canada*. The police submit that the call hardcopy relates to a call for service and that in responding to the call, they spoke with the appellant and an affected party.

⁹ Order MO-2954.

¹⁰ Orders P-242 and MO-2235.

[50] I have reviewed the call hardcopy and find that the personal information was compiled and is identifiable as part of an investigation into a possible violation of law. I accept that the police received a call for service and that the record contains information that was provided to and compiled by the police as part of their investigation into the circumstances relating to the call. As the presumption only requires that there be an investigation into a possible violation of law, the fact that no criminal proceedings were initiated does not alter my finding.

[51] As a result, I am satisfied that section 14(3)(b) applies and that disclosure of the personal information in the June 2, 2011 call hardcopy is presumed to be an unjustified invasion of the affected party's personal privacy.

[52] Under section 38(b), the section 14(3)(b) presumption must be weighed and balanced with any other factors in section 14(2) that apply in the circumstances.

Do any of the factors listed in section 14(2) apply?

[53] Section 14(2) lists factors that may be relevant in determining whether disclosure of personal information would constitute an unjustified invasion of personal privacy.

Section 14(2)(h): Information supplied in confidence

[54] The police submit that section 14(2)(h) applies to the withheld information. This factor requires an institution to consider whether "the personal information has been supplied by the individual to whom the information relates in confidence".¹¹ This factor weighs against disclosure.

[55] For this factor to apply, I must be satisfied that both the individual supplying the information and the recipient had an expectation that the information would be treated confidentially, and that this expectation is reasonable in the circumstances. Section 14(2)(h) requires an objective assessment of "reasonableness".¹²

[56] The police submit that it is reasonable for any individual that is involved in or interviewed by the police during an investigation to expect that the information they provide will be treated confidentially. The police also submit that as a law enforcement agency, there is an implied trust that they will act responsibly in dealing with information that is recorded during a police investigation.

[57] In the circumstances, I find that it is reasonable to expect that the affected party provided their personal information to the police in confidence, and that this expectation was shared by the police as the recipient of that information. In my view, the circumstances of the investigation are such that a reasonable person would expect that the information they were providing to the police would be subject to a degree of

¹¹ Section 14(2)(h) of the Act.

¹² Order PO-1670.

confidentiality. This is especially true given the nature of the call and the discussions that took place between the police and the parties. Previous orders of this office have also found section 14(2)(h) to apply where the police have referenced public trust as a relevant consideration.¹³ I agree with and adopt these findings.

[58] As a result, I find that the factor at section 14(2)(h) applies to the withheld information and weighs against disclosure.

Balancing the relevant presumptions and factors

[59] I have found that disclosure of the affected party's personal information would result in a presumed unjustified invasion of personal privacy under section 14(3)(b). I have also found that the section 14(2)(h) factor weighs against the disclosure of the affected party's personal information. I have found that no factors weighing in favour of the disclosure of the affected party's personal information have been established.

[60] Overall, I find that the balance weighs in favour of protecting the affected party's personal privacy, rather than the appellant's access rights. As a result, I find that the personal information at issue in the June 2, 2011 call hardcopy is exempt from disclosure under section 38(b) of the *Act*.

[61] The police also rely on section 38(a), read with 8(1)(d), to withhold the same information from the June 2, 2011 call hardcopy. As I have already found that this information is exempt from disclosure under section 38(b), there is no need for me to consider whether section 38(a), read with section 8(1)(d) also applies to this information.

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

[62] Section 38(a) of the *Act* states:

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

if section 6, 7, **8**, 8.1, 8.2, 9, 9.1, 10, 11, 12, 13 or 15 would apply to the disclosure of that personal information. [emphasis added]

[63] The discretionary nature of section 38(a) ("may" refuse to disclose) 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

¹³ See, for example, Orders MO-4657, MO-4656, and MO-4618.

information.¹⁴

[64] If the institution refuses to give an individual access to their own personal information under section 38(a), the institution must show that it considered whether a record should be released to the requester because the record contains their personal information.

[65] In this case, the police rely on section 38(a), read with 8(1)(l) to withhold information from the January 3, 2007, June 2, 2011, and January 31, 2012 call hardcopies, as well as Officer 1's notes. Section 8(1)(l) states:

A head may refuse to disclose a record if the disclosure could reasonably be expected to,

facilitate the commission of an unlawful act or hamper the control of crime.

[66] For section 38(a), read with 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.

Representations, analysis and finding

[67] The police submit that the information withheld under section 38(a), read with section 8(1)(l) include the police's geographical patrol zones, response codes, procedural codes, and unit identification numbers. The police submit that this type of information has previously been found to be exempt pursuant to section 8(1)(l) of the *Act*, citing Orders MO-2898 and MO-757. The appellant does not provide representations on the section 8(1)(l) exemption.

[68] Previous IPC orders have consistently held that section 8(1)(l) applies to police codes.¹⁵ These orders have generally found that the disclosure of police codes would compromise police officers' ability to "provide effective policing services as it would be easier for individuals engaged in illegal activities to carry them out and would jeopardize the safety of [officers]".¹⁶ I agree with and adopt the reasoning in these orders.

[69] Based on my review of the records, I confirm that the information that the police withheld from the three call hardcopies and Officer 1's notes pursuant to section 8(1)(l) consists of police codes. I find that the disclosure of this information could reasonably be expected to facilitate the commission of an unlawful act or hamper the control of crime.

[70] As a result, I find that the police codes in the call hardcopies and Officer 1's notes

¹⁴ Order M-352.

¹⁵ See, for example, Orders PO-4778, PO-3742, MO-3773, and PO-1665.

¹⁶ Order PO-1665.

are exempt from disclosure pursuant to section 38(a), read with section 8(1)(l) of the *Act*.

Issue E: Did the police exercise their discretion under sections 38(a) and 38(b)? If so, should the IPC uphold the exercise of discretion?

[71] The sections 38(a) and 38(b) exemptions are discretionary and permit an institution to disclose information, despite the fact that it could withhold it. Having found that portions of the records are exempt from disclosure under sections 38(a) and 38(b), I must next determine if the police properly exercised their discretion in withholding the information. An institution must exercise its discretion. On appeal, the IPC may determine whether an institution has failed to do so.

[72] The IPC may find that an institution erred in exercising its discretion where, for example:

- it does so in bad faith or for an improper purpose;
- it takes into account irrelevant considerations; or
- it fails to take into account relevant considerations.

[73] In either case, the IPC may send the matter back to the institution for an exercise of discretion based on proper considerations.¹⁷ The IPC may not, however, substitute its own discretion for that of the institution.¹⁸

Representations, analysis and findings

[74] The police submit that they did not exercise their discretion in bad faith or for an improper purpose. The police submit that they considered all relevant factors when exercising their discretion, including but not limited to the appellant's right of access to her own personal information, the affected party's privacy rights, the relationship between the appellant and the affected party, the nature of the information, and the possible impact of disclosure, including harm to police operations and public confidence. The appellant does not specifically address the police's exercise of discretion in her representations, but states that she believes the police are intentionally withholding information that she is entitled to.

[75] I have reviewed the considerations relied upon by the police and find that they properly exercised their discretion in withholding the police codes in the three call hardcopies and Officer 1's notes under section 38(a), read with 8(1)(l), and the affected party's personal information in the June 2, 2011 call hardcopy under section 38(b). Based on the police's representations, it is clear that they considered the purposes of the *Act*

¹⁷ Order MO-1573.

¹⁸ Section 43(2) of the *Act*.

and sought to balance the appellant's interest in accessing the entire record with other relevant factors, including the protection of the affected party's privacy, when making their decision.

[76] I find that the police did not exercise their discretion to withhold portions of the call hardcopies or officer's notes in bad faith or for any improper purpose, and that there is no evidence that they failed to take relevant factors into account or considered irrelevant factors. Accordingly, I uphold the police's exercise of discretion in denying access to the information at issue.

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

[77] Where a requester claims additional records exist beyond those identified by the institution, the issue to be decided is whether the institution has conducted a reasonable search for records as required by section 17 of the *Act*.¹⁹ If the IPC is satisfied that the search carried out was reasonable in the circumstances, it will uphold the institution's decision. 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.²⁰

Representations

[78] The appellant submits that additional responsive records should exist and that government institutions keep all of their records. As an example, the appellant states that she has received her driver's license information from over 45 years ago. The appellant believes that the police are using their records retention policy as an excuse and that they have records that were not disclosed to her.

[79] The police submit that no additional responsive records exist. The police submit that the search was completed by an experienced Freedom of Information Analyst (analyst) and include an affidavit from the analyst in support of their position. In her affidavit, the analyst states that she searched for responsive records by querying nine combinations of names, addresses, dates of birth, and phone numbers in the police's Records Management System (RMS). The analyst submits that she located three call hardcopies relating to three calls for service that the appellant made, as well as officers' notes relating to two of the call hardcopies.

[80] The analyst explains that any occurrence reports associated with the three calls for service would have been purged from RMS in accordance with the police's Occurrence Investigation Records Retention and Destruction Schedule, a copy of which was attached to her affidavit.

[81] The police submit that although the appellant indicated that she believes additional

¹⁹ Orders P-85, P-221 and PO-1954-I.

²⁰ Order MO-2185.

records exist, she did not provide particulars with respect to date, nature of the call, or nature of the police's investigation. However, in response to the appellant's concerns, the police indicate that the Freedom of Information Supervisor (supervisor) conducted additional searches for responsive records. The police submit that the supervisor is also an experienced employee and provide an affidavit from the supervisor in support of their position.

[82] In her affidavit, the supervisor reiterates that any occurrence reports associated with the three calls for service have been purged from RMS in accordance with the police's retention policy. Specifically, the supervisor explains that:

- The January 31, 2012 incident involved an assist public call for which no occurrence report was generated;
- The January 3, 2007 incident involved a vehicle theft call – any associated occurrence report was subject to a five (5) year retention period that has since expired; and,
- The June 2, 2011 incident involved a trouble with person call – any associated occurrence report was subject to a three (3) year retention period that has since expired.

[83] In order to confirm that the police did not have any additional responsive records, the supervisor indicates that she also conducted four "browse" searches in RMS. Specifically, the supervisor submits that she browsed: female entities with the appellant's name and date of birth; female entities with the appellant's first name; and "Completed calls" and "General Occurrences" for the specified address and for a specified timespan (which included the years that the appellant lived at the specified address). The supervisor submits that the browse searches did not generate any additional responsive records.

[84] Finally, the supervisor states that she followed up with the reporting officer for any notes relating to the June 2, 2011 incident. The supervisor submits that she received the officer's notes and provided them to the appellant, along with an updated Index of Records.

Analysis and finding

[85] For the reasons that follow, I am satisfied that the police have conducted a reasonable search for records responsive to the appellant's request.

[86] 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 reasonably related to the request.²¹ I accept that both the analyst and the supervisor are

²¹ Orders M-909, PO-2469 and PO-2592.

experienced employees who are knowledgeable in the subject matter of the request, having worked with the police for seven and 19 years respectively. I also accept that the analyst's regular responsibilities include searching for records and that she has processed hundreds of access to information requests in the course of her employment.

[87] The *Act* does not require the institution to prove with certainty that further records do not exist.²² The institution must, however, provide enough evidence to show that it has made a reasonable effort to identify and locate responsive records.²³ Based on the information before me, including the information in the analyst and supervisor's affidavits which include the method of the search, the locations that were searched, and the results of the search, I am satisfied that the police have made a reasonable effort to locate records that are related to the appellant's request. I accept that the police conducted various keyword and "browse" searches and that these did not generate any responsive records beyond those that were already disclosed to the appellant in large part. I also accept that in conducting additional searches, the supervisor contacted the reporting officer and located an additional set of notes, which were provided to the appellant.

[88] I have also reviewed the attachments to the affidavits, which were shared with the appellant during the inquiry. I accept that the police have a procedure for the retention of documents and that the Occurrence Investigation Records Retention and Destruction Schedule sets out the retention periods for records generated "as a result of an occurrence investigation". I accept that only two of the appellant's calls for service may have generated occurrence reports, and that the retention periods for these occurrence reports have expired.

[89] Although a requester will rarely be in a position to indicate precisely which records the institution has not identified, they must still provide a reasonable basis for concluding that such records exist.²⁴ While I understand that the appellant believes that the police have additional records, at least in part because she successfully obtained her driver's license information from over 45 years ago, it is reasonable to expect that different institutions may have different retention policies. In my view, the appellant has not explained her concerns with the police's retention policy or with their search more generally. Consequently, I am not satisfied that the appellant has provided a reasonable basis for concluding that additional records exist.

[90] As a result, I find that the ministry's search for responsive records was reasonable and in compliance with its obligations under section 17 of the *Act*.

²² *Youbi-Misaac v. Information and Privacy Commissioner of Ontario*, 2024 ONSC 5049 at para 9, on the analogous requirement in the provincial equivalent of the *Act*.

²³ Orders P-624 and PO-2559.

²⁴ Order MO-2246.

ORDER:

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

Original Signed by: _____

Anda Wang
Adjudicator

_____ March 5, 2026