Information and Privacy Commissioner,
Ontario, Canada

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

ORDER PO-4803

Appeal PA23-00557

Ministry of the Solicitor General

March 25, 2026

Summary: An individual asked the Ministry of the Solicitor General for records relating to various complaints he made to the police about his family property. The ministry granted the individual partial access to the records it located denying most of the withheld information under the personal privacy exemption (section 49(b)). The ministry also withheld portions of the records under the law enforcement and solicitor-client privilege exemptions (section 49(a)).

The adjudicator upholds the ministry's decision to withhold most of the information under the personal privacy and solicitor-client privilege exemptions but orders it to disclose internal communications between police officers finding this information is not exempt under section 49(a) read with section 14(l)(1)(facilitate commission of an unlawful act).

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31 sections 2(1) ("personal information"), 14(1)(l), 21(2)(f), 21(3)(b), 49(a) and 49(b).

Orders Considered: Orders PO-3742 and PO-4426.

OVERVIEW:

[1] This order resolves an appeal of an access decision of the Ministry of the Solicitor General (the ministry) under the *Freedom of Information and Protection of Privacy Act* (the *Act*). The appellant filed two requests under the *Act* seeking access to information regarding complaints he made to the Ontario Provincial Police (OPP) about his family's property.

[2] The appellant's first request sought access to:

> All notes and reports for the reworking and reinvestigating of [my] family property issues and incidents completed by [specified Detectives] of the Sudbury detachment and any other input by other officers ...

[3] The appellant's second request sought access to:

> All notes and reports concerning the damage done on [my] family property investigated by [a specified constable] and all notes and reports by other officers re the Crowns office concerning property damage.

[4] The ministry issued one access decision responding to the two requests. The ministry granted the appellant partial access to responsive records claiming that disclosure of most of the withheld information would constitute an unjustified invasion of personal privacy under section 49(b) taking into consideration the presumptions at section 21(3)(b) and the factor favouring privacy protection at section 21(2)(f). The ministry also claimed the following:

- Some portions of the records qualify for exemption under the solicitor-client communication privilege exemption (section 49(a) in conjunction with section 19),
- The law enforcement exemption under section 49(a) in conjunction with section 14(1)(l) (facilitate commission of an unlawful act) applied to some other portions of the records, and
- The remaining withheld information did not respond to the request.

[5] The appellant filed an appeal with the Information and Privacy Commissioner of Ontario (IPC), and the file was assigned to a mediator who explored settlement with the parties. During mediation, the appellant questioned the ministry's search claiming that additional responsive records should have been located. In response, the ministry agreed to conduct a second search but reported that no additional responsive records were located.

[6] Also, during mediation, the appellant provided the ministry with consent forms for four affected individuals whose information was withheld in the records. The ministry subsequently issued a revised access decision to the appellant providing him access to additional information related to the individuals who provided written consent.

[7] At the end of mediation, the appellant confirmed that he continues to seek access to the remaining withheld information, including the information the ministry identified as non-responsive.

[8] I decided to conduct an inquiry and invited the written representations of the

parties.[1] In his representations, the appellant says he is now only pursuing access to the following records:

- The withheld information contained in the records relating to a specified incident number (pages 1-4, 16-17, and 20-24),[2]
- The withheld information in the summary report of the occurrence reports related to the attendance of two named police officers on a specific date (page 91), and
- The notes and reports of two different officers he says contacted the Ministry of Natural Resources (pages 80-85).

[9] Accordingly, I have removed from the scope of the appeal the other issues identified as outstanding in the mediator's report relating to portions of the records not identified above. In removing these issues from the scope of the appeal, I note that the appellant's representations did not respond to the ministry's submissions regarding the non-responsiveness of records and the police code/numerical information withheld under the law enforcement exemption. In any event, I reviewed these records and confirm that they contain information not relating to the subject of the request along with police code or other numerical information which the IPC has consistently found that the exemption at section 14(1)(l) applies.[3] In addition, I concluded that the reasonable search issue could not proceed given the appellant's failure to respond to the ministry's representations regarding its search efforts or provide evidence in support of his position that he had a reasonable basis for concluding that additional records exist.[4]

[10] In this order, I uphold the ministry's decision to withhold the portions of the records it claims qualifies for exemption under the personal privacy and solicitor-client privilege exemptions. However, a small portion of the records is found not exempt under the law enforcement exemption and is ordered disclosed to the appellant.

RECORDS:

[11] The records in dispute are occurrence reports, occurrence summaries, general reports, an interview report, and officer notes.

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[1] The parties' representations were shared in accordance with the confidentiality criteria in the IPC's *Code of Procedure*.

[2] The appellant in referencing the incident number appears to be seeking access to a single document he refers to as "an executive summary." However, I note that the records relating to this incident consist of an occurrence summary (page 2), general report (pages 16-17) and four supplementary occurrence reports (pages 1, 3-4 and 20 -24).

[3] See for example Orders PO-1665 and MO-2607.

[4] See for example Order MO-2246.

ISSUES:

A. Do the records contain "personal information" as defined in section 2(1) and, if so, whose information is it? Does the discretionary personal privacy exemption at section 49(b) read with section 21(1) apply to the withheld information on pages 1-4, 16-17, 20-24, 80-85, and 91?

B. Does the discretionary solicitor-client privilege exemption at section 49(a) read with section 19 apply to the withheld information on pages 3, 21, and 22?

C. Does the discretionary law enforcement exemption at section 49(a) read with section 14(1)(l) apply to the withheld information on pages 1, 3, 4, and 82?

DISCUSSION:

Issue A: Do the records contain "personal information" as defined in section 2(1) and, if so, whose information is it? Does the discretionary personal privacy exemption at section 49(b) read with section 21(1) apply to the withheld information on pages 1-4, 16-17, 20-24, 80-85, and 91?

Most of the records contain the personal information of the appellant and other individuals

[12] In order to decide which sections of the *Act* may apply to a specific case, the IPC must first decide whether the record contains "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."

[13] "Recorded information" is information recorded in any format, such as paper records, electronic records, digital photographs, videos, or maps.[5]

[14] 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.[6] 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.[7]

[15] 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

[5] See the definition of "record" in section 2(1).
[6] Orders P-257, P-427, P-1412, P-1621, R-980015, MO-1550-F and PO-2225.
[7] Orders P-1409, R-980015, PO-2225 and MO-2344.

information.[8]

[16] The appellant's representations did not address whether the records contain the personal information of identifiable individuals. Instead, his representations focus on the reasons he says he needs access to the withheld information.

[17] I find that the information in the records about the appellant and other individuals constitutes their "personal information" as defined in paragraphs (a), (b), (c), (d), (e), (g) and (h) in section 2(1) of the *Act*.[9] I agree with the ministry that this information contains the personal information of individuals the OPP interviewed or contacted during their investigation, such as their names, addresses, ages, phone numbers along with the information they provided the OPP. I also find that this information is about identifiable individuals as it is reasonable to expect that the individuals can be identified if disclosed to the appellant.

[18] I also find that the "Workplace Identification Numbers (WIN)" identifiers appearing along with the names of certain OPP staff in the records are "personal information." Although this information relates to the employee in a professional, official, or business capacity, as the numbers are assigned to employees, I find that the WIN identifiers constitute the OPP staff's "personal information" as it reveals something about a personal nature about them. In arriving at this decision, I note that the WIN identifiers are distinct from police badge numbers which were disclosed to the appellant. In addition, the WIN identifiers in the records appear to relate to administrative staff.

[19] However, I find that small portions of the records do not contain the personal information of an identifiable individual. As a result, the personal privacy exemption at section 49(b) can not be relied upon to withhold this information from the appellant. These portions of the records capture internal communications exchanged between police officers (pages 1, 3, 4, 21, and 82) or crown attorneys (pages 3, 21, and 22). Later in this order, I will determine whether these portions of the records qualify for exemption under section 49(a) read with sections 14(1)(l) (facilitate commission of an unlawful act)

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

[9] "personal information" means recorded information about an identifiable individual, including,

> (a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual,
> (b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,
> (c) any identifying number, symbol or other particular assigned to the individual,
> (d) the address, telephone number, fingerprints or blood type of the individual,
> (e) the personal opinions or views of the individual except where they relate to another individual,
> (g) the views or opinions of another individual about the individual, and
> (h) the individual's name where it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual; ("renseignements personnels")

or 19 (solicitor-client privilege exemption).

Disclosure of the personal information of other individuals to the appellant would constitute an unjustified invasion of personal privacy

[20] Section 47(1) of the *Act* gives individuals a general right of access to their own personal information held by an institution. Section 49 provides some exemptions from this right.

[21] Under the section 49(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.[10]

[22] The section 49(b) exemption, however, is discretionary. This means that the institution can decide to disclose another individual's personal information to a requester even if doing so would result in an unjustified invasion of another individual's personal privacy.

[23] If disclosing another individual's personal information would not be an unjustified invasion of personal privacy, then the information is not exempt under section 49(b).

[24] Sections 21(1) to (4) of the *Act* provide guidance in deciding whether the information is exempt under 49(b). If any of the exceptions in section 21(1)(a) to (e) apply, disclosure would not be an unjustified invasion of personal privacy, and the information is not exempt from disclosure under section 49(b).

[25] In deciding whether either of the section 49(b) exemption or the section 21(1)(f) exception to the section 21(1) exemption applies, sections 21(2), (3), and (4) of the *Act* help to determine whether disclosure would be an unjustified invasion of personal privacy.

[26] Sections 21(2), (3), and (4) also help in deciding whether disclosure would or would not be an unjustified invasion of personal privacy under section 49(b). Section 21(4) lists situations where disclosure would not be an unjustified invasion of personal privacy, in which case it is not necessary to decide if any of the factors or presumptions in sections 21(2) or (3) apply. In this appeal, the parties did not argue that section 21(4) applies, and I am satisfied that this section has no application. For records claimed to be exempt under section 49(b) (that is, records that contain the requester's personal information), the decision-maker must consider and weigh the factors and presumptions in sections 21(2) and (3) and balance the interests of the parties in deciding whether the disclosure of the other individual's personal information would be an unjustified invasion

[10] However, the requester's own personal information, standing alone, cannot be exempt under section 49(b) as its disclosure could not, by definition, be an unjustified invasion of another individual's personal privacy (Order PO-2560).

of personal privacy.[11]

[27] The ministry says that the presumption at section 21(3)(b) along with the factor favouring privacy at section 21(2)(f) applies in the circumstances of this appeal. The appellant's representations did not specifically address this issue. However, the appellant made an argument that the withheld information would provide him information related to the police's investigation including any information "they are trying to cover up." Accordingly, I will consider whether the factor favouring disclosure at section 21(2)(d) applies (the personal information is relevant to the fair determination of the requester's rights).

The presumption at section 21(3)(b) applies

[28] Section 21(3)(b) states:

> A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy if the personal information, was compiled and is identifiable as part of an investigation into a possible violation of law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation.

[29] This presumption requires only that there be an investigation into a *possible* violation of law.[12] So, even if criminal proceedings were never started against the individual, section 21(3)(b) may still apply.[13]

[30] The presumption can apply to different types of investigations, including those relating to by-law enforcement,[14] and enforcement of environmental laws,[15] occupational health and safety laws,[16] or violations of the Ontario *Human Rights Code*.[17]

[31] The presumption does not apply if the records were created after the completion of an investigation into a possible violation of law.[18]

[32] I find that the presumption at section 21(3)(b) applies in this circumstance because the records contain information about an investigation into possible *Criminal Code* violations.

[33] In support of its position that the presumption at section 21(3)(b) applies, the

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[11] Order MO-2954.
[12] Orders P-242 and MO-2235.
[13] The presumption can also apply to records created as part of a law enforcement investigation where charges were laid but subsequently withdrawn (Orders MO-2213, PO-1849 and PO-2608).
[14] Order MO-2147.
[15] Order PO-1706.
[16] Order PO-2716.
[17] R.S.O. 1990, c. H19; Orders PO-2201, PO-2419, PO-2480, PO-2572 and PO-2638.
[18] Orders M-734, M-841, M-1086, PO-1819 and MO-2019.

ministry submits that the "… records [but for the WIN numbers] were prepared by the OPP because the OPP investigated a property dispute, in which they considered whether one or more offences had been committed."

[34] Having regard to the representations of the parties along with my review of the records, I find that the presumption at section 21(3)(b) applies in this circumstance. The records contain information about an investigation into possible *Criminal Code* violations and contains information identifiable individuals provided about themselves and others along with information the police gathered. Section 21(3)(b) therefore weighs in favour of non-disclosure of the withheld personal information.

The factor at section 21(2)(d) favouring disclosure does not apply

[35] Section 21(2)(d) states:

> A head, in determining whether a disclosure of personal information constitutes an unjustified invasion of personal privacy, shall consider all the relevant circumstances, including whether the personal information is relevant to a fair determination of rights affecting the person who made the request.

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

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

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

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

4. Is the personal information required in order to prepare for the proceeding or to ensure an impartial hearing?[19]

[37] In his representations, the appellant asserts that there was a "gross mishandling" of the complaints he filed with the police. He says that the OPP is shielding the withheld information from "becoming the public record." The appellant refers to a professional standards matter and appears to take the position that disclosure of the withheld information would assist him in those proceedings or any future contemplated

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

proceedings against the police.

[38] Based on my review of the records and the appellant's representations, I find that the personal information at issue is not significant to a determination to the right in question. Accordingly, even if I was satisfied that parts 1, 2, and 4 of the four-part test have been met, part 3 of the test has *not* been established. In my view, the right identified by the appellant is not significantly impacted if he is not granted disclosure to the personal information at issue.

[39] Having regard to the above, I find that the appellant has not met the third part of the four-part test for the factor at section 21(2)(d) to apply in the circumstances of this appeal. I also find that no other factor weighing in favour of disclosure could apply to the withheld personal information.

The factor at section 21(2)(f) favouring privacy protection applies

[40] Section 21(2)(f) states:

> A head, in determining whether a disclosure of personal information constitutes an unjustified invasion of personal privacy, shall consider all the relevant circumstances, including whether the personal information is highly sensitive.

[41] This section is intended to weigh against disclosure when the evidence shows that the personal information is highly sensitive. To be considered "highly sensitive," there must be a reasonable expectation of significant personal distress if the information is disclosed.[20]

[42] The ministry says that the factor favoring privacy protection at section 21(2)(f) applies to the withheld WIN identifiers. In support of its position, the ministry states:

> … disclosure of this identifier would be expected to be distressing because it would reveal something of a personal nature about the employees, given that the employees' names have also been released. Someone who has both the name and WIN number of an employee might be able to obtain additional human resources information about the employee.

[43] I agree with the ministry's argument and find that the factor favouring privacy protection at section 21(2)(f) applies to the WIN identifiers. In arriving at this decision, I note that the IPC has consistently protected the personal identifiers of employees.[21]

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[20] Orders PO-2518, PO-2617, MO-2262 and MO-2344.
[21] See for examples Order PO-3742 and PO-4336 cited by the ministry in its representations.

The discretionary exemption at section 49(b) applies

[44] I found that the presumption at section 21(3)(b) applies along with the factor favouring privacy protection at section 21(2)(f). As I found that no listed or unlisted factors weighing in favour of disclosure apply, I find that the circumstances of this appeal weigh against disclosure of the withheld personal information in the records to the appellant.

[45] Accordingly, I find that the withheld personal information is exempt from disclosure under the discretionary personal privacy exemption at section 49(b).

The absurd result principle does not apply

[46] I also find that the absurd result principle has no application in the circumstances of this appeal.

[47] In its representations, the ministry says that the application of the absurd result principle in the circumstances of this appeal would be inconsistent with the purpose of the personal privacy exemption. In support of its position, the ministry cites Order PO-3013 which is often cited for the proposition that there is "a particular sensitivity inherent in records compiled in a law enforcement context". The appellant's representations did not specifically address this issue though he says that his lawyers have already seen some of the information at issue.

[48] The absurd result principle may apply in cases where the requester originally supplied the information in the record or is otherwise aware of the information contained in the record. In these types of situations, withholding the information might be absurd and inconsistent with the purpose of the exemption.[22] However, if disclosure is inconsistent with the purpose of the exemption, the absurd result principle may not apply.[23]

[49] The "absurd result" principle has been applied when the requester sought access to their own witness statement,[24] the requester was present when the information was provided to the institution,[25] or the information was or is clearly within the requester's knowledge.[26]

[50] I find that the absurd result principle does not apply in the circumstances of this appeal. Disclosing the exempt personal information to the appellant is inconsistent with the purpose of the personal privacy exemption, particularly given the sensitivity of the information at issue and the law enforcement context in which it appears.

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[22] Orders M-444 and MO-1323.
[23] Orders M-757, MO-1323 and MO-1378.
[24] Orders M-444 and M-451.
[25] Orders M-444 and P-1414.
[26] Orders MO-1196, PO-1679 and MO-1755.

The ministry properly exercised its discretion

[51] As stated above, the section 49(b) exemption discretionary and an institution can decide to disclose another individual's personal information to a requester even if doing so would result in an unjustified invasion of another individual's personal privacy.

[52] I am satisfied that the ministry properly exercised its discretion in good faith to deny the appellant access to the personal information of other individuals. In arriving at this decision, I find that the ministry took into relevant considerations and did not take into account irrelevant considerations or make its decision in bad faith. For example, I find that that the manner the ministry severed the records took into consideration that exemptions from the right of access should be limited and specific. I also find that the ministry in withholding the personal information at issue balanced the principles that individuals should have a right of access to their own personal information with the purpose and wording of the exemption and the interests it seeks to protect.

Issue B: Does the discretionary solicitor-client privilege exemption at section 49(a) read with section 19 apply to the remaining withheld information on pages 3, 21, and 22?

[53] Where access is denied under section 49(a), the institution must demonstrate that, in exercising its discretion, it considered whether a record should be released to the requester because the record contains his or her personal information.

[54] In this case, the ministry relies on section 49(a) read with the solicitor client privilege exemption at section 19. The ministry specifically relies on sections 19(a) and (b) which state:

> A head may refuse to disclose a record,
>
> (a) that is subject to solicitor-client privilege, [or]
>
> (b) that was prepared by or for Crown counsel for use in giving legal advice or in contemplation of or for use in litigation[.]

[55] Section 19 contains three different exemptions, which the IPC has referred in previous decisions as making up two "branches." The first branch, found in section 19(a), ("subject to solicitor-client privilege") is based on common law. The second branch, found in sections 19(b) and (c), ("prepared by or for Crown counsel" or "prepared by or for counsel employed or retained by an educational institution or hospital") contains statutory privileges created by the *Act*. The institution must establish that at least one branch applies.

Common law solicitor-client communication privilege

[56] The rationale for the common law solicitor-client communication privilege is to

ensure that a client may freely confide in their lawyer on a legal matter.[27] This privilege protects direct communications of a confidential nature between lawyer and client, or their agents or employees, made for the purpose of obtaining or giving legal advice.[28] The privilege covers not only the legal advice itself and the request for advice, but also communications between the lawyer and client aimed at keeping both informed so that advice can be sought and given.[29]

[57] Confidentiality is an essential component of solicitor-client communication privilege. The institution must demonstrate that the communication was made in confidence, either expressly or by implication.[30] The privilege does not cover communications between a lawyer and a party on the other side of a transaction.[31]

[58] The ministry says that portions of pages 3, 21 and 22 are subject to the solicitor-client communication privilege. In support of its position, the ministry states:

> The record[s] reveal communications between OPP police officers and Crown Attorneys that contain requests for, or that contain actual legal advice, which was used for the purpose of an OPP investigation.

[59] The appellant's representations did not specifically address this issue.

[60] I find that the solicitor-client communication privilege under branch 1 applies. The records themselves reveal the questions and issues the police asked counsel along with the answers and directions counsel provided in response. Accordingly, I find that these portions of the records would, if disclosed, reveal communications between a solicitor and client, or their agents or employees, made for the purpose of obtaining or giving professional legal advice. In addition, given the context the legal advice was requested and provided, I find that the communication is of a confidential nature. The context here is that the police requested legal advice during the investigation.

[61] In the absence of evidence to suggest that the ministry waived its privilege in these records, I find that the ministry established that the records are exempt under the common-law solicitor-client communication privilege under branch 1. Given my decision, it is not necessary that I also make a finding as to whether the records also qualify for the statutory communication privilege under branch 2.

[62] In addition, I have considered the purpose of the solicitor-client communication privilege and am satisfied that the ministry properly exercised its discretion in good faith to deny the appellant access to this information because the ministry took into account

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[27] Orders PO-2441, MO-2166 and MO-1925.
[28] *Descôteaux v. Mierzwinski* (1982), 141 D.L.R. (3d) 590 (S.C.C.).
[29] *Balabel v. Air India*, [1988] 2 W.L.R. 1036 at 1046 (Eng. C.A.); *Canada (Ministry of Public Safety and Emergency Preparedness) v. Canada (Information Commissioner)*, 2013 FCA 104.
[30] *General Accident Assurance Co. v. Chrusz* (1999), 45 O.R. (3d) 321 (C.A.); Order MO-2936.
[31] *Kitchener (City) v. Ontario (Information and Privacy Commissioner)*, 2012 ONSC 3496 (Div. Ct.)

relevant considerations and did not take into account irrelevant considerations or make its decision in bad faith.

Issue C: Does the discretionary law enforcement exemption at section 49(a) read with section 14(1)(l) apply to the withheld information on pages 1, 3, and 4?[32]

[63] The ministry relies upon section 49(a) read with the law enforcement exemption at section 14(1)(l) to deny portions of the records on pages 1, 3, and 4.

[64] When relying on 49(a), read with another exemption, an insitution must demonstrate that, in exercising its discretion, it considered whether the records should be released to the requestor because the information at issue appears along the requestor's personal information. Section 14(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.

[65] For section 14(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.

[66] The law enforcement exemptions under section 14, however, must be approached in a sensitive manner, because it is hard to predict future events in the law enforcement context, and so care must be taken not to harm ongoing law enforcement investigations.[33]

[67] Further, a law enforcement exemption does not apply just because a continuing law enforcement matter exists,[34] and parties resisting disclosure of a record cannot simply assert that the harms under section 14 are obvious based on the record. They must provide detailed evidence about the risk of harm if the record is disclosed. While harm can sometimes be inferred from the records themselves and/or the surrounding circumstances, parties should not assume that the harms under section 14 are self-evident and can be proven simply by repeating the description of harms in the *Act.*[35]

[68] Parties resisting disclosure must show that the risk of harm is real and not just a possibility.[36] However, they do not have to prove that disclosure will in fact result in harm. How much and what kind of evidence is needed to establish the harm depends on the

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[32] The police also claimed that a small portion of page 82 qualified for exemption under section 49(a) read with section 14(1)(l). However, I already found that this portion of the record qualified for exemption under the personal privacy exemption under section 49(b) read with section 21(1).
[33] *Ontario (Attorney General) v. Fineberg* (1994), 19 O.R. (3d) 197 (Div. Ct.).
[34] Order PO-2040 and *Ontario (Attorney General) v. Fineberg*, cited above.
[35] Orders MO-2363 and PO-2435.
[36] *Merck Frosst Canada Ltd.* v. *Canada (Health)*, [2012] 1 S.C.R. 23.

context of the request and the seriousness of the consequences of disclosing the information.[37]

[69] The ministry denied the appellant access to the portions of the records it says contain internal communications between police officers involved in the investigation of the appellant's complaint and related matters. The ministry says in its representations that:

> … [t]hese internal communications contain impressions or views formed by members of the OPP, or reveal actions undertaken that were relevant to the investigation and that were intended to be communicated internally with other members of the OPP. The Ministry submits that disclosure of these internal communications could cause members of the OPP to cease to communicate with each other candidly, which we submit would be expected to hamper the control of crime.

[70] The appellant's representations do not specifically address this issue.

[71] I find that the exemption at section 49(a) read with section 14(1)(l) does not apply.

[72] The ministry asserts that disclosure of information that police officers recorded in the records for the purpose of communicating with each other about the investigation could reasonably be expected to facilitate the commission of an unlawful act or hamper the control of crime. The ministry's reasoning is that disclosure of this information could reasonably be expected to cause police officers to "cease" communicating with each other candidly by adding notations or comments to their reports.

[73] I find that the ministry has not established that the risk of harm is real and not just a possibility. At best, the ministry's evidence suggests that some police officers may hesitate to record their impressions, views, or suggested next steps in occurrence reports if they anticipate there is a possibility that this information would be read by non-police individuals. However, I find that the ministry's argument flawed in this regard as occurrence reports are created to record the officer's investigative work, which, in addition to recording information gathered by community members could also include their professional views. In addition, I note that the ministry's evidence that it is reasonable to expect that internal police communication would "cease" fails to identify other methods of internal communication available to police officers, such as internal emails.

[74] Previous IPC orders have also dismissed similar arguments made by the ministry. For example, in Order PO-4426, the adjudicator considered the ministry's argument "that members of the OPP would be less likely to record information and to communicate

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[37] *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.

candidly with one another, if the information they communicate is more likely to be disclosed." The adjudicator considered and applied the reasoning in Order PO-3742 in which the adjudicator stated:

> The ministry's position casts the net far too widely and in my view the ministry fails to provide sufficient evidence to support its bald assertions that disclosing the other information that the ministry asserts is subject to section 14(1)(l), which is the type of information typically found in occurrence reports and police officer's notes, could reasonably be expected to result in the section 14(1)(l) harms alleged.

[75] Similarly, the adjudicators in Orders PO-3742 and PO-4426 concluded that the evidence before them did not establish a link between the contemplated harm in section 14(1)(l) with the specific information at issue. I also find that the evidence before me falls short of establishing a connection between the specific information the ministry seeks to withhold with the section 14(1)(l) harm, namely that disclosure of this information specifically could be expected to facilitate the commission of an unlawful act or hamper the control of crime.

[76] Accordingly, I find that the ministry has failed to provide sufficient evidence to support its assertion that disclosing the police officer(s) impressions, views, or suggested next steps in the occurrence reports before me could reasonably be expected to result in the harms contemplated by section 14(1)(l).

[77] As a result, I find that the discretionary exemption at section 49(a) read with section 14(1)(l) does not apply to pages 1, 3, and 4.[38] As the ministry has not claimed any other discretionary exemption applies to this information, and I am satisfied that no mandatory exemption applies, the ministry is ordered to disclose these portions of the records on pages 1, 3, and 4 to the appellant.

ORDER:

1. I uphold the ministry's decision to deny the appellant's access to the personal information on pages 1-4, 16-17, 20-24, 80-85, and 91 that I found exempt under section 49(b) read with section 21(1).

2. I uphold the ministry's decision to deny the appellant access to the information on pages 3, 21, and 22, I found exempt under the solicitor-client exemption under section 49(a) read with section 19.

[38] This information is located on the third paragraph on page 1, third paragraph on page 3 and last paragraph on page 4 of the records.

3. I order the ministry to disclose the remaining information at issue on pages 1, 3, and 4 to the appellant by **April 29, 2026,** I found not exempt under section 49(a) read with section 14(1)(l).

4. 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.

Original Signed by: March 25, 2026

Jennifer James
Adjudicator