

Information and Privacy Commissioner,
Ontario, Canada



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

INTERIM ORDER PO-4756-I

Appeal PA23-00194

Ministry of the Solicitor General

November 3, 2025

Summary: An individual made a request under the *Freedom of Information and Protection of Privacy Act* to the Ontario Civilian Police Commission (now dissolved). The individual seeks access to an investigation file of a specified complaint against a named individual and the Waterloo Regional Police Services Board. The commission refused access to the responsive records citing the law enforcement exemption in section 14 and the solicitor-client privilege exemption in section 19 of the *Act*.

In this interim order, the adjudicator upholds the commission's decision to deny the appellant access to their own personal information under section 49(a) read with the solicitor-client privilege in section 19 in some records. However, the adjudicator finds that the commission did not properly exercise its discretion and returns the matter to the Ministry of the Solicitor General for it to re-exercise its discretion with respect to the records that she finds are exempt.

Otherwise, the adjudicator finds that sections 14 and 19 do not apply to the remaining records and she orders the ministry to disclose the records to the appellant with the personal information of identifiable individuals other than the appellant severed pursuant to section 10(2) of the *Act*.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended, definition of "personal information" in section 2(1), sections 2(3), 10(2), 14(1), (2), 19, 47 and 49(a); *Police Services Act*, R.S.O. 1990, c. P.15, section 25(1).

Orders Considered: Orders M-366, PO-3112, PO-4080 and PO-4462.

Cases Considered: *Durham Regional Police Association v. Durham Regional Police Services Board* 2015 CanLII 60920 (ON LA).

OVERVIEW:

[1] This interim order addresses an individual's right of access to records of an investigation by the Ontario Civilian Police Commission (the commission).¹ The adjudicator considers the commission's discretion to deny the individual access to their own personal information under section 49(a) of the *Freedom of Information and Protection of Privacy Act* (the *Act*), read with the law enforcement exemption in section 14 and the solicitor-client privilege exemption in section 19.

[2] An individual made a request to the commission under the *Act* for access to:

[The] entire investigative file, containing notes, reports, witness statements, for [the commission] complaint filed by [the requester] against [named individual] and the Waterloo Regional Police Services Board in 2022.

Time period: 27 June 2022 to 23 January 2023.

[3] The commission identified 9 responsive records comprising correspondence, notices and briefing materials. The commission issued an access decision denying access in full. The commission cited the law enforcement exemptions in sections 14(1)(c) (investigative techniques and procedures), 14(1)(d) (confidential source of information) and 14(1)(g) (intelligence information) and the solicitor-client privilege exemption in section 19 of the *Act*.

[4] The requester (now appellant) appealed the Commission's decision to the Information and Privacy Commissioner of Ontario (the IPC) to challenge the application of the claimed exemptions. A mediator was appointed to explore resolution.

[5] As a mediated resolution was not achieved,² the file was transferred to the adjudication stage of the appeal process, where an adjudicator may conduct an inquiry. I decided to conduct an inquiry and invited and received representations from the parties.³

¹ The *Independent Police Review Act*, 2007, S.O. 2007, c. 5 amended the *Police Services Act*, 1990, to create a new public complaints process and establish the mandate of the Ontario Civilian Police Commission (the commission). On April 1, 2024, the *Police Services Act* was repealed and on September 1, 2025, the commission was dissolved. The commission was dissolved after the adjudicator received its representations in her inquiry. Following the dissolution of the commission, the Ministry of the Solicitor General acquired carriage of all ongoing appeals from the commission's access decisions under the *Act*. Accordingly, the ministry is now the respondent in this appeal.

² During mediation, the appellant advised that she believes that the public interest override in section 23 of the *Act* applies to permit disclosure of the records. Section 23 of the *Act* provides for a public interest override of the exemptions in sections 13, 15, 15.1, 17, 18, 20, 21 and 21.1. The exemptions claimed by the commission in this appeal are in sections 14, and 19 and accordingly cannot be subject to the public interest override. The application of section 23 is not at issue in the appeal.

³ I identified the individual named in the request as an affected party. I attempted to notify the affected party of the appeal and to seek their views. No response was received.

[6] In its representations, the commission states that it had revised its decision and it is now prepared to grant the appellant access to two records (records 2 and 8). The commission states that these records, comprising emails, can be disclosed. Accordingly, I will order the ministry to disclose records 2 and 8 to the appellant, if the commission has not already done so.

[7] In this interim order, I find that records 1 and 4 are exempt under section 49(a) read with section 19. However, I do not uphold the commission's exercise of discretion and return the matter to the ministry who now has carriage of this appeal to re-exercise its discretion to withhold these records pursuant to section 49(a), read with section 19. I find the claimed exemptions in section 49(a), read with sections 14(1), (2) and 19 do not apply to the remaining records and I order the ministry to disclose them to the appellant, with the personal information of identifiable individuals other than the appellant, severed.

RECORDS:

[8] The records at issue and the corresponding exemptions claimed by the commission are set out in the index below:

Record	Description	Exemptions claimed
1	Memo	49 (a), read with 14(1)(c), 14(2)(a) and 19
3	Closing letter	14(1)(c)
4	Briefing materials	49(a), read with 14(1)(c), 14(2)(a) and 19
5	Email and attached submission	49(a), read with 14(1)(c) and 14(2)(a)
6	Email	14(1)(c)
7	Email	14(1)(c)
9	Notice of preliminary review	49(a), read with 14(1)(c), 14(1)(g), 14(2)(a) and 19

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 at section 49(a), allowing an institution to refuse access to a requester’s own personal information, read with section 19 exemption, apply to records 1, 4 and 9?

C: Did the commission exercise its discretion under section 49(a), read with section 19? If so, should the IPC uphold the exercise of discretion?

D: Does the discretionary exemption at section 49(a), allowing an institution to refuse access to a requester’s own personal information, read with the exemptions at sections 14(1) and (2), apply to the records at issue?

E: Does the discretionary exemption at section 14(1)(c) related to law enforcement activities apply to records 3, 6 and 7?

DISCUSSION:

Background about the commission

[9] In its representations, the commission provided background information about its legislative mandate that is set out in the *Police Services Act*⁴ (PSA). The commission is an independent civilian police oversight agency that has an Adjudicative Division and an Investigation Division. The Adjudicative Division primarily hears appeals of police disciplinary matters. The Investigative Division, which is led by the Executive Chair of Tribunals Ontario, deals with investigations, inquiries and public complaints regarding the conduct of chiefs of police, police officers, special constables and police service boards.

[10] The commission’s power to conduct its own investigation into the conduct of chiefs of police and police service boards is set out in section 25 of the PSA. Section 25(1) states, in part:

25 (1) The Commission may, on its own motion or at the request of the Solicitor General, the Independent Police Review Director, a municipal council or a board, investigate, inquire into and report on,

(a) the conduct or the performance of duties of a police officer, a municipal chief of police, an auxiliary member of a police force, a special constable, a municipal law enforcement officer or a member of a board...

[11] The commission states that its investigations can lead to hearings held by the

⁴ R.S.O. 1990, c. P.15.

Adjudicative Division, which can impose penalties. Penalties can include requiring that members of a police services board step down or terminating the employment of a police chief, pursuant to section 23 of the PSA. In addition, the commission cites Ontario Regulation 268/10 which provides that a police officer can be found guilty of misconduct in a variety of circumstances.

[12] As already noted, on September 1, 2025, the commission was dissolved. The commission's representations made during my inquiry refer to the position prior to its dissolution.

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

[13] In order to decide which sections of the *Act* may apply to the records at issue, I must first decide whether each record contains "personal information," and if so, whose personal information it is. Section 2(1) of the *Act* defines "personal information" as "recorded information about an identifiable individual." 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.

[14] It is important to know whose personal information is in the record. If the record contains the requester's own personal information, their access rights are greater than if it does not.⁵ Also, if the record contains the personal information of other individuals, one of the personal privacy exemptions might apply.⁶

[15] Generally, information about an individual in their professional, official or business capacity is not considered to be "about" the individual.⁷ See also sections 2(3) and (4), which state:

(3) Personal information does not include the name, title, contact information or designation of an individual that identifies the individual in a business, professional or official capacity.

(4) For greater certainty, subsection (3) applies even if an individual carries out business, professional or official responsibilities from their dwelling and the contact information for the individual relates to that dwelling.

[16] 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.⁸

⁵ 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.

⁶ See sections 14(1) and 38(b).

⁷ Orders P-257, P-427, P-1412, P-1621, R-980015, MO-1550-F and PO-2225.

⁸ Orders P-1409, R-980015, PO-2225 and MO-2344.

[17] Information is about an “identifiable individual” if it is reasonable to expect that an individual can be identified from the information either by itself or if combined with other information.⁹

[18] Section 2(1) of the *Act* gives a list of examples of personal information. This list includes information relating to the employment history of an individual (paragraph (b)) and the personal opinions or views of an individual except if they relate to another individual (paragraph (e)), the views or opinions of another individual about the individual (paragraph (g)) and an individual’s name if 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 (paragraph (h)).¹⁰

[19] The list of examples of personal information under section 2(1) is not a complete list. Other kinds of information can also be “personal information.”¹¹

[20] The commission’s position is that records 1, 4, 5 and 9 contain the personal information of the appellant. The commission submits that this personal information is information about the appellant’s employment history and her personal views or opinions. The commission states that records 1 and 5 also contain the views or opinions of members of the police board about the appellant.

[21] Regarding the affected party, the commission’s position is that records 1, 4, 5 and 9 contain the personal information of the affected party. The commission submits that this personal information is information about the appellant’s allegations. The commission submits that the affected party is identifiable from this information and that they relate to him in his personal capacity so that it qualifies as his personal information within the meaning of paragraph (h) of the definition in section 2(1) of the *Act*.

[22] The commission submits that record 7 contains the personal information of the individual acting as legal counsel for the affected party and the police board. The commission submits that this information is of a personal nature and qualifies as an identifiable individual’s personal information within paragraph (h) of the definition in section 2(1) of the *Act*.

[23] The appellant’s position is that the information in the records relates to individuals in their professional, official or business capacity and is not therefore their personal information. The appellant states that the commission has not claimed the exemptions in sections 17 (third party information) or 21 (personal privacy) or refused access to the records because they contain personal information. The appellant does not address whether the records contain her personal information. However, I acknowledge that the appellant makes these submissions without having seen the records at issue.

⁹ Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.).

¹⁰ Paragraphs (b), (e), (g) and (h) of the definition of “personal information” in section 2(1).

¹¹ See Order 11.

Analysis and findings

[24] For the reasons that follow, I find that:

- Records 1, 4 and 9 contain the personal information of the appellant only;
- Record 5 contains the personal information of both the appellant and the affected party; and
- Record 7 contains the personal information of another identifiable individual, specifically the lawyer representing the police board.

[25] In respect of the appellant, from my review of the records, I find that records 1, 4, 5 and 9 contain the appellant's name, information about her employment history and her opinions or views. This information qualifies as the appellant's personal information within the meaning of paragraphs (b), (e) and (h) of the definition of "personal information" in section 2(1) of the *Act*.

[26] In respect of the affected party, I am satisfied from my review of record 5, that it contains information about the appellant's views and opinions of the affected party. I am satisfied that this information, if disclosed, would reveal something of a personal nature about the affected party. Accordingly, I find that information in record 5 qualifies as the affected party's personal information within the meaning of paragraph (g) of the definition of "personal information" in section 2(1) of the *Act*.

[27] Regarding record 7, I find that it contains the name of an identifiable individual and information that, if disclosed, would reveal something of a personal nature about that individual. This individual is the lawyer acting for the police board in relation to the appellant's complaint. I am satisfied that this specific information in record 7 qualifies as the lawyer's personal information within the meaning of paragraph (h) of the definition of "personal information" in section 2(1) of the *Act*.

[28] The records also contain reference to the affected party's former title as a member of the police board. As noted above, information that identifies an individual in a business, professional or official capacity does not qualify as their personal information.¹² Accordingly, I find that this information is not the affected party's personal information.

[29] Finally, I find that records 3 and 6 do not contain the personal information of any identifiable individual.

[30] As I find that records 1, 4, 5 and 9 contain the appellant's personal information, I will consider the commission's discretion to refuse the appellant access to her own personal information in section 49(a), read with the exemptions claimed by the commission. This is set out in Issues B and D below.

[31] As I find that records 3, 6 and 7 do not contain the appellant's personal

¹² See section 2(2) of the *Act*.

information, I will consider the exemptions claimed by the commission, without reference to section 49(a). This is set out in Issue E below.

Severance

[32] Section 10(2) of the *Act* obliges an institution to disclose as much of any responsive record as can reasonably be severed without disclosing material which is exempt. In the Notice of Inquiry sent to the commission, I invited it to consider whether there is any undisclosed information that should be disclosed to the appellant pursuant to section 10(2) and to make representations addressing severance of the records. The commission's position is that there is no undisclosed information that should be disclosed pursuant to section 10(2).

[33] I disagree with the commission and am satisfied that the records I will order to be disclosed to the appellant as a result of my findings below can be reasonably severed to withhold the personal information of other identifiable individuals.

[34] I have determined that records 5 and 7 contain the personal information of identifiable individuals other than the appellant. The commission has not claimed the personal privacy exemptions in sections 21(1) or 49(b) in respect of these records. From my review of records 5 and 7, the personal information of individuals other than the appellant comprises a small portion of the records. However, these individuals have not had an opportunity to comment on the disclosure of their personal information.¹³ I therefore make no findings about the application of the mandatory personal privacy exemption in section 21(1) to the personal information of the police board's lawyer in record 7 or the discretionary personal privacy exemption in section 49(b) to the affected party's personal information in record 5.

[35] As I explain in my analyses of the issues below, I find that the law enforcement exemptions in sections 14(1) and 14(2) claimed by the commission do not apply to records 5 and 7. I will therefore order that records 5 and 7 are disclosed to the appellant with the personal information of other identifiable individuals severed.

Issue B: Does the discretionary exemption at section 49(a), allowing an institution to refuse access to a requester's own personal information, read with section 19 exemption, apply to records 1, 4 and 9?

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

[37] In this appeal, the commission relies on section 49(a) read with section 19 to withhold records 1, 4 and 9.

[38] Section 19 exempts certain records from disclosure, either because they are

¹³ The commission did not notify the individuals of the appellant's request. As noted above, I did not receive a response from the affected party during my inquiry.

subject to solicitor-client privilege or because they were prepared by or for legal counsel for an institution. It states, in part:

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; ...

[39] Section 19 contains three exemptions, which the IPC has described 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 section 19(b) for the purposes of this appeal, (“prepared by or for Crown counsel”) contains a statutory privilege created by the *Act*.

[40] The commission must show that at least one branch applies. The commission’s primary position is that the first branch applies in this appeal and records 1, 4 and 9 are exempt because they are subject to common law solicitor-client privilege. In the alternative, the commission submits that records 1, 4 and 9 are exempt under the second branch because they are subject to the statutory solicitor-client privilege.

[41] 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.¹⁴ 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.¹⁵ 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.¹⁶

[42] 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.¹⁷ The privilege does not cover communications between a lawyer and a party on the other side of a transaction.¹⁸

[43] The branch 2 exemption is a statutory privilege that applies where the records were “prepared by or for counsel employed or retained by an institution for use in giving legal advice or in contemplation of or for use in litigation.” The statutory and common law privileges, although not identical, exist for similar reasons. Like the common law solicitor-client communication privilege, the statutory solicitor-client communication

¹⁴ Orders PO-2441, MO-2166 and MO-1925.

¹⁵ *Descôteaux v. Mierzewski* (1982), 141 D.L.R. (3d) 590 (S.C.C.).

¹⁶ *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.

¹⁷ *General Accident Assurance Co. v. Chrusz* (1999), 45 O.R. (3d) 321 (C.A.); Order MO-2936.

¹⁸ *Kitchener (City) v. Ontario (Information and Privacy Commissioner)*, 2012 ONSC 3496 (Div. Ct.)

privilege covers records prepared for use in giving legal advice.

Parties' representations

[44] The commission's position is that records 1, 4 and 9 were prepared for the specific purpose of providing legal advice. The commission submits that record 1 is professional legal advice provided to the Executive Chair of Tribunals Ontario with respect to the appellant's complaint. Regarding record 4, the commission submits that this record comprises briefing materials prepared for the Executive Chair and the briefing materials include legal advice set out in record 1.

[45] The commission submits that record 9, which is the notice of preliminary review sent to the police board, is a continuation of solicitor-client communication and is therefore subject to the same solicitor-client communication privilege. The commission states that it has not waived privilege with respect to records 1, 4 and 9.

[46] The appellant's position is that the commission has not demonstrated that the records are subject to solicitor-client privilege. The appellant cites *Durham Regional Police Association v. Durham Regional Police Services Board*¹⁹ and submits that when a lawyer plays the role of investigator, there must be a clear distinction between conducting an investigation and providing legal advice. The appellant states that when appointed to act as investigators, lawyers are not providing the commission with legal advice. The appellant submits that in the role of investigator, a lawyer's duty is to investigate a complaint on behalf of the public. The appellant states that a lawyer conducting a preliminary review for the commission is fulfilling the statutory duties of the commission pursuant to its exercise of powers under section 25 of the PSA. The appellant submits that it is unethical to consider what should be transparent investigations of police leadership as legal advice to protect all records from disclosure under solicitor-client privilege.

[47] In reply, the commission states that lawyers appointed as investigators are, as a matter of fact, counsel instructed by the Executive Chair. The commission submits that the circumstances in *Durham Regional Police Association* are distinguishable from this appeal. The commission states that in that case it was held that solicitor-client privilege did not attach to an investigative report because counsel had initially been retained for the purposes of conducting an independent third party investigation. In that case, it was only after delivering the investigation report that counsel was asked to also provide legal advice. The court held that while a report *can* be part of the continuum of legal advice, it cannot be part of the continuum if it was not created for the purpose of providing legal advice.

[48] The commission submits that records 1 and 4 in this appeal were created for the purposes of providing legal advice to the Executive Chair. Further, the commission submits that record 9 is a continuum of that communication.

¹⁹ 2015 CanLII 60920 (ON LA) (*Durham Regional Police Association*).

Analysis and findings

[49] For the reasons that follow, I find that records 1 and 4 are communications containing legal advice provided by counsel to its client, the Executive Chair, and are therefore subject to solicitor-client communication privilege. I find that records 1 and 4 are exempt from disclosure under section 49(a), read with section 19(a) of the *Act*. I find that record 9 is not subject to solicitor-client privilege so that it is not exempt from disclosure under either the common law or statutory privilege in section 19 of the *Act*.

[50] From my review of record 1, I find that it contains legal advice. I agree with the appellant's submission, citing *Durham Regional Police Association*, that there should be a clear distinction when counsel conducts an investigation and provides legal advice.

[51] There is no information before me to support a finding that the commission or its counsel conducted an investigation into the appellant's complaint. I find that the contents of record 1 are a communication in the form of a memo for the purposes of providing legal advice only. There is no reference in the memo to an investigation or an exercise of the commission's investigative powers under section 25 of the PSA. I am satisfied that record 1 is a solicitor-client communication for the purpose of providing legal advice.

[52] With regard to record 4, I am satisfied that it also contains the legal advice provided by counsel to the Executive Chair in record 1. From my review of record 4, I find that only one page of the record relates to the appellant's complaint to the commission. The other pages contain briefings, including legal advice, to the Executive Chair in relation to other matters. Accordingly, I find that the whole record is subject to solicitor-client privilege and is exempt from disclosure under section 49(a), read with section 19(a) of the *Act*.

[53] I am not persuaded that record 9 is a continuation of solicitor-client communications for the purposes of seeking or receiving legal advice. Record 9 is a notice of preliminary review from the commission's manager of operations to the police board.

[54] Attached to her representations, the appellant has provided me with a similar notice of preliminary review that the commission sent to her upon receipt of her complaint. The appellant's notice is almost identical to record 9 in its form and content. I am not persuaded that the disclosure of record 9 would reveal the fact or the contents of legal advice.

[55] From my review of record 9, I find that it pre-dates the legal advice set out in record 1. Accordingly, I do not accept the commission's submission that record 9 is a continuation of the communication in record 1. I find that the commission has not established that record 9 is subject to either common law or statutory solicitor-client communication privilege under section 19 of the *Act*.

[56] As I have found that records 1 and 4 are exempt under section 19, I will uphold the commission's decision not to release them to the appellant, subject to my review of the commission's exercise of discretion which I consider in Issue C below.

[57] Regarding record 9, as I find that the solicitor-client privilege exemption in section 19 does not apply, I will consider the commission's alternative claim that record 9 is exempt under the law enforcement exemption in section 14.

Issue C: Did the commission exercise its discretion under section 49(a), read with section 19 to withhold records 1 and 4? If so, should the IPC uphold the exercise of discretion?

[58] The section 49(a), read with section 19, exemptions are discretionary (the institution "may" refuse to disclose), meaning that the commission can decide to disclose information even if the information qualifies for exemption. An institution must exercise its discretion. On appeal, the IPC may determine whether the institution failed to do so. In addition, 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.

[59] In either case, the IPC may send the matter back to the institution for an exercise of discretion based on proper considerations.²⁰ The IPC cannot, however, substitute its own discretion for that of the institution.²¹

[60] Relevant considerations in the exercise of discretion in this appeal are the purposes of the *Act*, including the principles that individuals should have a right of access to their own personal information and exemptions from the right of access should be limited and specific. Also relevant to this appeal is the interest that section 19 seeks to protect, namely the solicitor-client relationship between the commission and lawyers retained to provide legal advice.

[61] The commission's position is that it has properly exercised its discretion to withhold records pursuant to the solicitor-client privilege in section 19 of the *Act*. The commission states that the confidential legal communication exchanged in the protected relationship between the commission's investigators and the Executive Chair is an essential component of the commission's investigative process.

[62] The appellant does not directly address the commission's exercise of its discretion in deciding to withhold records pursuant to the solicitor-client communication privilege in section 19(1).

[63] The appellant's representations address the provision of legal advice within the context of the commission's investigation under section 25 of the PSA. The appellant states that the lawyer who conducted the preliminary review was not providing legal advice to the commission.

[64] The appellant submits that she believes it is "unethical" for the commission to consider the investigations of police leadership, which should be transparent, as legal

²⁰ Order MO-1573.

²¹ Section 54(2).

advice to protect all records from disclosure. The appellant submits that the commission's decision that the records of an investigation are legal advice defeats the purpose of having an independent oversight body.

[65] In its reply representations, the commission raises for the first time its statutory duty of confidentiality set out in section 21(10) of the PSA. The commission submits that the duty of confidentiality applies to all information obtained in the course of its duties. In the context of its exercise of discretion, the commission submits that it properly considered the privacy of the individuals subject to the investigation and its obligations under section 21(10) of the PSA to deny access to the records.

[66] Having considered the commission's representations, I am not satisfied that it has properly exercised its discretion under section 49(a), read with section 19(1) in reaching its decision to withhold records 1 and 4 from the appellant. I find that the commission failed to take into account relevant factors and the principles of the *Act*. From my review of the commission's representations, I am not persuaded that it has taken into account the appellant's right of access to records containing her personal information and the principle of the *Act* that exemptions from that right should be limited and specific.

[67] In addition, in my findings in this appeal, I have not been persuaded that the records at issue were created as part of the commission's exercise of its investigative powers in section 25 of the PSA. The closing letter to the appellant clearly states that the commission declined to conduct an investigation under that section. In these circumstances, I find that the commission has improperly exercised its discretion by taking into account the confidentiality provision at section 21(10) of the PSA and the privacy interests of individuals who were the subject of a complaint, but not a formal investigation. These are irrelevant factors in the context of the commission's exercise of discretion when it decided to withhold the records from the appellant pursuant to section 49(a), read with section 19(1).

[68] Accordingly, I do not uphold the commission's exercise of discretion and I will order the commission (now the ministry) to re-exercise its discretion. In the re-exercise of discretion, the ministry is to take into account that records 1 and 4 contain the appellant's personal information, that she has a right to access such information and that exemptions from that right should be limited and specific.

Issue D: Does the discretionary exemption at section 49(a), allowing an institution to refuse access to a requester's own personal information, read with the section 14(1) or 14(2) law exemption, apply to records 5 and 9?

[69] As already noted, section 49(a) provides exemptions from a requester's general right of access to their own personal information. In this appeal, the commission relies on section 49(a) read with the law enforcement exemptions at sections 14(1)(c), 14(1)(g) and 14(2)(a).

[70] Section 14 contains several exemptions from a requester's right of access, mostly related to the context of law enforcement.

[71] Section 14(1)(c) and 14(1)(g) state:

(1) A head may refuse to disclose a record if disclosure could reasonably be expected to,

(c) reveal investigative techniques and procedures currently in use or likely to be used in law enforcement;

...

(g) interfere with the gathering of or reveal law enforcement intelligence information respecting organizations or persons; ...

[72] Section 14(2)(a) states:

(2) A head may refuse to disclose a record,

(a) that is a report prepared in the course of law enforcement, inspections or investigations by an agency which has the function of enforcing and regulating compliance with a law [.]

[73] The term "law enforcement" is defined in section 2(1) to mean: (a) policing, (b) investigations or inspections that lead or could lead to proceedings in a court or tribunal if a penalty or sanction could be imposed in those proceedings; or (c) the conduct of the proceedings referred to in (b).

Parties' representations

[74] The commission's position is that it conducts law enforcement within the meaning of paragraphs (b) and (c) of the definition in section 2(1) of the *Act*. As noted above, the commission states that its investigations can lead to hearings held by its Adjudicative Division, which in turn can impose penalties. These penalties include requiring that members of a police services board step down or terminating the employment of a police chief, pursuant to section 23 of the PSA. In addition, the commission provided confidential representations about how its investigations can include investigating police officer misconduct under the Code of Conduct set out in Ontario Regulation 268/10.

[75] The commission states that its processes and procedures used in its investigations are not generally known to the public. It states that it is a neutral and independent body and preserving its independence and neutrality requires a confidential investigation process. The commission states that it can determine that it should issue a publicly available investigative report but it does not otherwise disclose information to the public, including information related to its investigation procedures. In addition, the commission states that it limits the information it shares with parties involved in the investigation. For example, the commission does not copy complainants on correspondence intended for "opposing parties." Finally, the commission states that it does not provide parties to the investigation with copies of information gathered during an investigation or information provided by witnesses, which is treated as confidential. The commission states that it

advises parties to an investigation that information regarding the investigation should not be disclosed to the public.

[76] The commission submits that allowing its investigation records to be disclosed to the public poses a real risk of harm. The commission states that it is essential for it to maintain the integrity of the investigative process and that allowing public access to its investigative records has the potential to compromise that integrity. The commission states that it determines the appropriate methods and process to investigate a complaint based on the allegations and the circumstances giving rise to the complaint. The commission states that the scope and severity of the allegations in an investigation can vary significantly and as an investigation progresses, it chooses between a variety of potential steps and employs a wide variety of techniques and processes in the investigation process.

[77] The commission submits that disclosing a record that reveals how it proceeded in a particular set of circumstances could create an expectation that other investigations should proceed in the same way, which may jeopardize those investigations. The commission states that it might conduct multiple investigations relating to the same police service and the same police officers. The commission submits that disclosing records created during an investigation could disadvantage or harm a participant in a different investigation that includes the same participants.

[78] The commission submits that records 5 and 9 are exempt under section 14(1)(c) because their disclosure could reveal investigation techniques and procedures.

[79] Regarding record 5, which contains the police board's response to the commission's notice of preliminary review, the commission submits that disclosure of this record would risk the appellant sharing it more widely and interfering with other investigations.

[80] Regarding record 9, the Notice of Preliminary Review to the police board, the commission states that each notice is specific to the recipient and sets out the information and evidence needed for the investigation. The commission states that these requests are targeted and focussed. The commission submits that allowing one party to find out the evidence it has sought from another party compromises the integrity of the investigation. In addition, the commission submits that making the notice public would reveal the investigative technique and procedure that it uses and could jeopardize the integrity of future investigations.

[81] The appellant submits that an investigation for disciplinary purposes does not constitute a "law enforcement" investigation for the purposes of the *Act*, even if the employee should subsequently bring a grievance. The appellant's position is that investigations of police chiefs and board members are for disciplinary purposes and enforcement of the PSA.

[82] The appellant states that in her complaint to the commission she asked it to conduct an investigation of the affected party and the police board. However, the

appellant submits that the commission did not in fact conduct an investigation, only a preliminary review. The appellant states that it is common knowledge that a preliminary review includes basic fact finding, not investigative techniques or procedures. The appellant states that the commission's gathering and review of information is a concept generally known to the public and does not involve any covert intelligence gathering.

[83] The appellant states that there are no other investigations that would be compromised if the records she is seeking are disclosed. The appellant submits that the commission has not provided the detailed and convincing evidence necessary to establish a reasonable expectation of harm, as required in section 14(1)(c).

[84] The appellant does not agree with the commission's submission that disclosure of the records at issue would undermine public confidence in the commission. The appellant submits that, to the contrary, if the records are disclosed, it would instill confidence that the commission is carrying out its mandate of overseeing police leadership.

[85] In reply, the commission submits that the IPC has previously held that investigations that can lead to sanctions for breaching the PSA meet the definition of law enforcement in section 2(1) of the *Act*. The commission cites Orders M-366 and PO-3112 in support of its submission.

[86] The commission disagrees with the appellant's submission that the preliminary review process is merely a fact finding mission with no technique or procedure so that it does not meet the requirements of section 14(1)(c). The commission states that the processes and procedures used in its investigations are not generally known to the public. The commission submits that a preliminary review entails more than reviewing the information provided by the appellant and that it often includes collecting a "vast array of different types of evidence from many other relevant sources" and its objective analysis of all the evidence.

[87] The commission reiterates the submissions made in its initial representations. In addition, the commission states that there is a real risk that disclosure of its investigative records, including records related to preliminary reviews, would lead to attempts by the public to influence investigations and interfere with their duty to act independently. The commission submits that disclosing these records to the appellant could "re-ignite the various disputes referred to in the complaint and lead to further attempts to have government agencies re-investigate issues previously raised in the complaint and disposed of by the commission." The commission submits that this risk is evident from the appellant's request for access to the records as a result of her disagreement with the commission's final decision.

Analysis and findings

Section 14(1)(c) investigative techniques or procedures

[88] For the reasons that follow, I find that section 49(a), read with the law enforcement exemption in section 14(1)(c) does not apply to records 5 and 9. I am not

satisfied that disclosure of the records could reasonably be expected to reveal investigative techniques and procedures.

[89] For section 14(1)(c) to apply, the commission must show that disclosing the investigative technique or procedure to the public could reasonably be expected to interfere with its effective use. The exemption normally will not apply where the technique or procedure is generally known to the public.²²

[90] The technique or procedure must be “investigative”; that is, it must be related to investigations. The exemption will not apply to techniques or procedures related to “enforcing” the law.²³

[91] I have carefully considered the parties’ representations and reviewed records 5 and 9. As the commission explains, at the preliminary review stage it sends a notice to each participant and makes distinct “targeted and focussed” requests for information and evidence. The commission explains that this evidence is then reviewed to determine whether to proceed to an investigation.

[92] In my view, this is an information gathering exercise. I am not persuaded that disclosure of records 5 and 9 could reasonably be expected to reveal an investigative technique or procedure. I find that the records do not contain information about a technique or procedure but rather it is the correspondence itself between the commission and the parties that is a procedure. Further, I am not persuaded that it is an *investigative* procedure. The records consist of a notice of preliminary review from the commission to the police board that is the subject of the appellant’s complaint and the police board’s response to the notice. I find that this correspondence is separate to and distinct from the commission’s investigative process.

[93] I agree with the appellant that this correspondence between the commission and the parties is an exercise in fact finding and, as such, is a procedure that is generally known to the public.

[94] The appellant has provided me with the notice of preliminary review that the commission sent to her. The notice clearly states that at that stage of the commission’s process, it has not decided to begin a formal investigation. In my view, this supports a finding that the procedure that would be revealed by the disclosure of the records at issue is not investigative.

[95] I do not agree with the commission’s submission that the preliminary review process in the records at issue in this appeal includes the collection of a “vast array of different types of evidence from many other sources.” From my review of records 5 and 9, I find that the collection of information is from one source, namely the police board that is the subject of the complaint. In addition, I find that the information collected in response to the notice of preliminary review is the information contained in record 5.

²² Orders P-170, P-1487, MO-2347-I and PO-2751.

²³ Orders PO-2034 and P-1340

Record 5 comprises the police board's submission, prepared by its legal counsel, in response to the complaint. This submission sets out the police board's position and refers to other proceedings between the police board and the appellant. I am not persuaded that inviting a party to a complaint to make submissions setting out its position is an investigative technique or procedure of the type contemplated by section 14(1)(c).

[96] Throughout its representations, the commission refers to procedures that it uses in its investigations and takes the position that confidentiality around these processes is required to preserve the commission's independence and neutrality. However, as I explain below, I find that the records the appellant is seeking in relation to her complaint are not records of an investigation. I am satisfied that the records at issue were created in the course of the commission's separate preliminary review process.

[97] As I find that section 49(a), read with 14(1)(c) does not apply to record 9, I will consider the commission's alternative claim that section 14(1)(g) (intelligence information) applies to that record.

[98] As I find that section 49(a), read with 14(1)(c) does not apply to record 5, I will consider the commission's alternative claim that section 14(2)(a) (law enforcement report) applies to that record.

Section 14(1)(g) intelligence information

[99] For the reasons that follow, I find that section 49(a), read with 14(1)(g) does not apply to record 9.

[100] For section 14(1)(g) to apply, there must be a reasonable basis for concluding that disclosure of the information at issue could be expected to interfere with the gathering of or reveal law enforcement intelligence information.

[101] The term "intelligence information" has been defined in the case law as:

Information gathered by a law enforcement agency in a covert manner with respect to ongoing efforts devoted to the detection and prosecution of crime or the prevention of possible violations of law. It is distinct from information compiled and identifiable as part of the investigation of a specific occurrence.²⁴

[102] The commission's position is that the notice of preliminary review is "an essential tool for gathering the intelligence necessary to assess whether or not there is an evidentiary foundation to a complaint." I do not accept the commission's submission.

[103] From my review of record 9, I am not satisfied that it contains information gathered in a covert manner. Record 9 is a notice sent from the commission to the police board. It

²⁴ Orders M-202, MO-1261, MO-1583 and PO-2751; see also Order PO-2455, confirmed in *Ontario (Community Safety and Correctional Services)*, 2007 CanLII 46174 (ON SCDC).

does not contain information gathered by the commission. It is the commission's means of gathering information in the preliminary review. Record 9 is a letter sent via email and is not marked as confidential. In my view, sending a letter to a police board is not a covert means of gathering intelligence, either expressly or by implication.

[104] I am also not satisfied that the information being sought is "intelligence" as contemplated by the section 14(1)(g) exemption. From my review of record 9, I find that it is the commission's invitation to the police board to respond to the appellant's complaint and to provide documentation referred to in the complaint. Given that the documentation requested is identified by the appellant in the complaint and not the commission, I am not satisfied that it qualifies as "intelligence information" as contemplated by section 14(1)(g).

[105] Moreover, the information sought by the commission in its notice of preliminary review relates to a specific set of circumstances that give rise to the appellant's complaint. In this regard, any information in the notice itself is identifiable as part of a specific process. In my view, the information "gathered" by the commission through the preliminary review process cannot be described as an "ongoing effort" devoted to the detection and prosecution of crime or the prevention of possible violations of law.

[106] I have reviewed the orders cited by the commission in support of its submission that disclosure of record 9 could be expected to interfere with the gathering of or reveal law enforcement intelligence information. In my view, the examples of the information at issue in those appeals are distinguishable from the records before me in this case.

[107] Order PO-4462 concerned a request for information relating to allegations that the requester was a member of a motorcycle gang. The adjudicator was satisfied that the information being sought would, if it existed, have been gathered over an extensive time period in a covert manner by either the OPP or another law enforcement agency, including Interpol.

[108] In Order PO-4080, the requester sought access to reports of suspicious transactions relating to money laundering or other suspicious transactions submitted by the Ontario Lottery Gaming Corporation (OLGC) to the Alcohol and Gaming Commission of Ontario (AGCO). The adjudicator found that the information at issue was confidential intelligence information about individuals suspected of crime who could not be "tipped off". This information included the identifies of employees who were confidential intelligence sources, contained information about how suspicious transactions were identified and patterns in datasets that could, if disclosed, help people evade detection. I do not agree with the commission's submission that because it shares a similar mandate to the AGCO, the information it gathers in the preliminary review of a specific complaint similarly qualifies for exemption under section 14(1)(g).

[109] For these reasons, I find that the commission has not demonstrated that disclosure of record 9 could reasonably be expected to result in the specific harm contemplated, namely interference in the gathering of or revelation of law enforcement intelligence information, as contemplated by section 14(1)(g).

[110] As I find that section 49(a), read with 14(1)(g) does not apply to record 9, I will consider the commission's alternative claim that section 14(2)(a) applies to that record.

Section 14(2)(a) law enforcement report

[111] For the reasons that follow, I find that section 49(a), read with 14(2)(a) does not apply to records 5 and 9.

[112] For a record to be exempt under section 14(2)(a), it must satisfy each part of a three-part test. The record must be (i) a report, (ii) prepared in the course of law enforcement, inspections or investigations, and (iii) prepared by an agency that has the function of enforcing and regulating compliance with a law.²⁵

[113] From my review of records 5 and 9, I find that they do not meet parts (i) or (ii) of the test. A "report" is "a formal statement or account of the results of the collation and consideration of information." Generally, results would not include mere observations or recordings of fact.²⁶

[114] Record 5 is the police board's submission to the commission in response to record 9, the notice of preliminary review. In my view, the notice and the submission are records of correspondence giving notification of a complaint, requesting information in response to the complaint and the response to the complaint. I am not satisfied that the records contain a collation of information nor a review or an analysis so that they are "reports" as contemplated by section 14(2)(a).

[115] In addition, I find that records 5 and 9 were not prepared in the course of law enforcement, inspections or investigation to meet part (ii) of the test.

[116] As I have noted above, the commission's position is that it conducts law enforcement within the meaning of paragraphs (b) and (c) of the definition of "law enforcement" in section 2(1) of the *Act*. The commission submits that its investigations can lead to hearings before its Adjudicative Division that can in turn lead to penalties under the provisions of the PSA and the Code of Conduct set out in Ontario Regulation 268/10. However, I do not need to make a finding on whether the commission's investigations qualify as law enforcement because I find that the records at issue were created as part of a preliminary review of the appellant's complaint only. I am not persuaded that the records were created by the commission when exercising its investigative powers under section 25 of the PSA.

[117] From my review of the records at issue and the parties' representations, it is apparent that the commission carried out a preliminary review of the appellant's complaint and then decided *not* to conduct an investigation under the PSA.

[118] The appellant has provided me with a copy of the Notice of Preliminary Review that the commission sent to her. This notice states that the commission had not made a

²⁵ Orders P-200 and P-324.

²⁶ Orders P-200, MO-1328, MO-1337-I.

determination to begin a formal investigation at that time and that none of the police board members who were the subject of the complaint are required to step down from their duties as a result of the preliminary review.

[119] Regarding the affected party, the commission states that penalties imposed on a police chief following its investigation can include dismissal from the police force. I am not satisfied that a preliminary review carries this potential outcome. There is no information before me to support a finding that a preliminary review of the appellant's complaint could lead to proceedings where a penalty, including dismissal from the police force, could be imposed.

[120] The appellant has also provided me with a copy of the closing letter that the commission sent to her. The closing letter states that the commission is taking no further action on her complaint. This letter also states that the commission had determined that "it would not be appropriate for it to exercise its authority under section 25 of the [PSA]". Section 25 empowers the commission to investigate, to inquire into and report on police matters. Accordingly, I am not satisfied that records 5 and 9, which relate to a preliminary review of a complaint, are law enforcement investigation reports for the purposes of section 14(2)(a).

[121] I have reviewed Orders M-366 and PO-3112, which the commission cites in support of its submission that the IPC has previously held that investigations that can lead to sanctions for breaches of the PSA meet the definition of law enforcement in section 2(1). While I agree with this proposition, I do not find that it assists me in this appeal because records 5 and 9 were not created as part of the commission's exercise of its investigation (or law enforcement) powers.

[122] In Order M-366, the appellant sought access to a copy of a report from a Police Services Board relating to an investigation into allegations of misconduct against a named police officer. The allegations of misconduct concerned offences under the *Criminal Code* and/or misconduct as outlined in regulations and the code of conduct of the PSA. When considering the application of the law enforcement provision in section 8(2)(a) of the municipal version of the *Act*, the adjudicator stated:

In the general case, the definition of "law enforcement" does not extend to employment-related disciplinary matters ... However, in this case, the reports were created in the course of an investigation to determine if the conduct of the named officer was "unlawful" in the sense that it constituted an offence against discipline under a regulation made pursuant to the [PSA]. Moreover, the allegations also involve conduct, which if substantiated, would have constituted an offence under the *Criminal Code*. The investigations into alleged offences under the [PSA] and the *Criminal Code* could have resulted in a hearing before a tribunal or court respectively at which penalties for such conduct could have been imposed.

Therefore, I find that the second part of the section 8(2)(a) test has been met as the reports were prepared in the course of a law enforcement investigation.

[123] In Order PO-3112, the adjudicator considered a request made to the Office of the Independent Police Review Director (OIPRD) for records relating to a complaint about police officers. The records at issue in that appeal were reports created in the course of an OIPRD investigation. The adjudicator considered previous IPC orders where it was accepted that the predecessors of the OIPRD (including the commission) were agencies with the function of enforcing and regulating compliance with a law. The adjudicator found that the OIPRD reports were prepared in the course of its investigation of the requester's complaints and that its investigation could lead to disciplinary hearings and the imposition of penalties and sanctions on officers found to have engaged in unlawful conduct under the PSA.

[124] In my view, the circumstances in those cases are different to the circumstances in this appeal. The reports at issue in Orders M-366 and PO-3112 were created in the course of an investigation to determine whether an officer's conduct was unlawful. In the appeal before me, the records were created as part of a preliminary review only and there is no basis for me to find that a determination of unlawful conduct or a referral to a court or tribunal, where such a finding could be made, are potential outcomes of the preliminary review process on its own.

[125] I agree with the adjudicator in Order PO-3112 that the commission is an agency with the function of enforcing compliance with the law. However, I am not persuaded that the records at issue in this appeal were created as part of the commission's exercise of that function. I find that the law enforcement exemption in section 49(a), read with section 14(2)(a) does not apply to records 5 and 9.

Issue E: Does the discretionary exemption at section 14(1)(c) related to law enforcement activities apply to records 3, 6 and 7?

[126] As I find that records 3, 6 and 7 do not contain the appellant's personal information, I will consider the application of the discretionary exemption in section 14(1)(c) claimed by the commission, without reference to section 49(a). In other words, the potential application of the exemption in section 14(1)(c) is not an exemption from the appellant's right of access to her own personal information.

[127] As already noted, section 14(1)(c) states that a head may refuse to disclose a record if disclosure could reasonably be expected to reveal investigative techniques and procedures currently in use or likely to be used in law enforcement. The term "law enforcement" is defined in section 2(1).

Parties' representations

[128] The commission's position is that section 14(1)(c) applies to records 3, 6 and 7 and that their disclosure could reveal investigation techniques and procedures. I have

summarised the commission's representations regarding the general application of section 14(1) to the records at issue in this appeal in paragraphs [74] to [77] and paragraphs [85] to [87] above.

[129] In respect of record 3, the closing letter sent by the commission to the police board, the commission submits that closing letters could include information that could compromise other investigations, if made public. The commission submits that if record 3 is disclosed to the appellant, it could be shared more widely and this might lead participants in other investigations to be concerned about the commission's ability to maintain the confidentiality expected from the investigation process.

[130] The commission states that records 6 and 7 contain decisions made by the investigator. The commission submits that these records are not generic administrative emails but form part of the investigative process.

[131] The appellant's position is that section 14(1)(c) does not apply to the records because the commission did not conduct an investigation but only a preliminary review. I have summarised the appellant's representations regarding the application of section 14(1) to the records at issue in paragraphs [81] to [84] above.

Analysis and findings

[132] For the reasons that I found section 14(1)(c) does not apply to records 5 and 9 in my analysis in Issue D above, I similarly find that the exemption does not apply to records 3, 6 and 7. Records 3, 6 and 7 are correspondence between the commission and the police board and I find that the commission has not demonstrated that their disclosure could reasonably be expected to reveal investigative techniques and procedures.

[133] Further, I do not agree with the commission's submission that record 3, the closing letter to the police board, contains information that could compromise other investigations. In my view, the closing letter is a standard communication from the commission informing the recipient of the outcome of the preliminary review process. The appellant has provided me with the closing letter sent to her from the commission, which is similar in form and content. The commission has not identified the information in the closing letter that, if disclosed might affect other investigations, nor has it provided me with any information about any other investigations that could be affected. From my review of record 3, I am not persuaded that its disclosure could reasonably be expected to lead to the harm specified in section 14(1)(c).

[134] I also do not agree with the commission's submissions regarding records 6 and 7. I find that these records do relate to an administrative decision made with respect to the commission's preliminary review of the appellant's complaint. In my view, the administrative decision that is the subject of the correspondence in records 6 and 7 is unique to the appellant's complaint and the parties involved. I am not persuaded that their disclosure could reasonably be expected to result in the harm specified in section 14(1)(c).

[135] As I have explained in my analysis of Issue D above, I do not accept that the commission's correspondence with the parties during its preliminary review of the appellant's complaint qualifies as an *investigative* process. In my view, records 3, 6 and 7 are correspondence for communication purposes only between the commission and the parties, there is no basis for me to find, and the commission has not demonstrated, that disclosure of these records of communication could reasonably be expected to reveal investigation techniques or procedures. Accordingly, I find that the law enforcement exemption in section 14(1)(c) does not apply to records 3, 6 and 7.

Summary of findings and severances under section 10(2)

[136] In summary, I uphold the commission's claim of section 49(a), read with the solicitor-client privilege exemption in section 19, to withhold records 1 and 4. However, I find that the commission has improperly exercised its discretion. Accordingly, I will return the matter to the ministry, which now has carriage of this appeal, to re-exercise its discretion with respect to records 1 and 4.

[137] I do not uphold the commission's claim of section 49(a), read with the law enforcement exemptions in sections 14(1), 14(2) or the solicitor-client privilege exemptions in section 19 for withholding records 5 and 9. In addition, I do not uphold the commission's claim of the law enforcement exemption in section 14(1) for records 3, 6 and 7. In the order provisions below, I will order the commission to disclose in full records 3, 6 and 9 to the appellant.

[138] I make no finding on the application of the mandatory personal privacy exemption in section 21(1) to record 7 or the discretionary personal privacy exemption in section 49(b) to record 5, however I will order that the personal information of identifiable individuals other than the appellant be severed from records 5 and 7.

[139] In its representations, the commission states that it has revised its decision to withhold records 2 and 8. Accordingly, I will order that the ministry disclose these records to the appellant, in the event that the commission has not already done so.

ORDER:

1. I uphold the commission's decision to withhold records 1 and 4 pursuant to section 49(a), read with the solicitor-client privilege exemption in section 19.
2. I order the ministry to re-exercise its discretion to refuse the appellant access to her own personal information in records 1 and 4 under section 49(a), read with section 19.
3. In the event that the ministry maintains its decision to withhold records 1 and 4, I order it to provide me and the appellant with representations about its re-exercise of discretion by **December 4, 2025**.
4. I order the ministry to disclose to the appellant the records identified in provisions 5 to 7 below by **December 9, 2025**, but not before **December 4, 2025**.

5. I order the ministry to disclose records 2 and 8, in the event that they have not already been released to the appellant.
6. I order the ministry to disclose to the appellant records 3 and 6, in full.
7. I order the ministry to disclose to the appellant severed copies of records 5, 7 and 9. For clarity, I have redacted the personal information of identifiable individuals other than the appellant that should **not** be disclosed on a copy of the records that I am providing to the ministry together with a copy of this order.



Katherine Ball
Adjudicator

November 3, 2025