

Information and Privacy Commissioner,  
Ontario, Canada



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

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## ORDER MO-4723

Appeal MA24-00619

The Greater/Grand Sudbury Police Services Board

November 19, 2025

**Summary:** The appellant submitted a request under the *Municipal Freedom of Information and Protection of Privacy Act* to the police for disciplinary records relating to an identified officer. The police withheld the responsive records based on section 52(3)3 of the *Act*, the exclusion for records related to labour relations and employment matters. The appellant appealed the police's access decision.

In this decision, the adjudicator finds the records would clearly be excluded from the application of the *Act* by section 52(3)3. She declines to conduct an inquiry in accordance with section 8.03(f) of the IPC's *Code of Procedure* and dismisses the appeal.

**Statutes Considered:** *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, section 52(3)3. Section 8.03(f) of the IPC's *Code of Procedure*.

### OVERVIEW:

[1] The appellant submitted a request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) to the Greater/Grand Sudbury Police Services Board (the police) for access to disciplinary records relating to an identified officer as well as details regarding their salary and compensation for 2023 and 2024.

[2] The police issued an access decision to the appellant denying him access to the records they located in response to the request. The police claimed these records are

excluded under the labour relations exclusion in section 52(3)3 of the *Act*.<sup>1</sup> The police also denied the appellant access to compensation and salary information under section 15(a) of the *Act* because the information is publicly available.

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

[4] During mediation, the appellant confirmed he does not pursue access to the information subject to the section 15(a) exemption. However, the appellant confirmed his interest in the records subject to the section 52(3)3 exclusion. The police maintained their decision regarding these records.

[5] Mediation did not resolve the appeal and it was transferred to the adjudication stage of the appeal process, where an adjudicator may conduct an inquiry under the *Act*. After reviewing the Mediator's Report, my preliminary view was that the exclusion at section 52(3)3 would clearly apply to the records. I wrote to the appellant advising him of my preliminary view and explaining my reasons for it. I advised I was considering declining to conduct an inquiry pursuant to section 8.03(f) of the IPC's *Code of Procedure* (the *Code*).<sup>2</sup>

[6] I invited the appellant to review my reasons and provide a response if he disagreed with my preliminary view. The appellant submitted a response, but it did not change my preliminary view. In the discussion that follows, I find the records are excluded from the *Act* by section 52(3)3. I exercise my discretion under section 8.03 of the *Code* to not conduct an inquiry. I dismiss the appeal.

## **DISCUSSION:**

### **The IPC's *Code of Procedure***

[7] Section 8.01 of the *Code* states an adjudicator *may* conduct an inquiry to dispose of some or all the issues in an appeal. Section 8.02 states the adjudicator may consider the information contained in the Mediator's Report to determine whether the circumstances warrant conducting an inquiry. Section 8.03 provides guidance on when an adjudicator may decline to conduct an inquiry. Section 8.03(f) is relevant to this appeal and states,

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<sup>1</sup> I note the police originally claimed section 52.2 of the Act applied to the records. However, during mediation, the police clarified their position and claimed the records are excluded under section 52(3)3 of the *Act*.

<sup>2</sup> Code of Procedure for appeals under the *Freedom of Information and Protection of Privacy Act* and the *Municipal Freedom of Information and Protection of Privacy Act*, available online at: [Code of Procedure for Appeals Under FIPPA and MFIPPA](#).

Without limiting the Adjudicator's authority to decline to conduct an Inquiry for any other reason, the Adjudicator may decline to conduct an Inquiry where an exclusion in the *Act* will clearly apply to the record.

[8] In my letter to the appellant, I explained my preliminary view that the exclusion in section 52(3)3 of the *Act* would clearly apply to the records and I was considering declining to conduct an inquiry. I offered the appellant an opportunity to respond to my preliminary review and he did. I will set out my preliminary view as communicated to the appellant, his response, and my reasons for dismissing the appeal.

### **The application of section 52(3)3 of the *Act***

[9] Section 52(3) of the *Act* excludes certain records held by an institution relating to labour relations or employment matters. If the exclusion applies, the record is not subject to the access scheme in the *Act*. The relevant portions of section 52(3)3 state,

Subject to subsection (4), this Act does not apply to records collected, prepared, maintained or used by or on behalf of an institution in relation to any of the following:

3. Meetings, consultations, discussions or communications about labour relations or employment related matters in which the institution has an interest.

[10] If section 52(3) applies to the records, and none of the exceptions found in section 52(4) apply, the records are excluded from the scope of the *Act*.

[11] The type of records excluded from the *Act* by section 52(3) are those relating to matters in which the institution is acting as an employer, and terms and conditions of employment or human resources questions are at issue.<sup>3</sup> For section 52(3)3 to apply, the police must establish the following:

1. the records were collected, prepared, maintained or used by an institution or on its behalf;
2. this collection, preparation, maintenance or use was in relation to meetings, consultations, discussions or communications; and
3. these meetings, consultations, discussions or communications are about labour relations or employment-related matters in which the institution has an interest.

[12] In my letter to the appellant, I explained it was my preliminary view that all three parts of the test have been met. Specifically, the records were prepared or maintained by the police in relation to a disciplinary matter. I explained the records were prepared

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<sup>3</sup> *Ontario (Ministry of Correctional Services) v. Goodis*, 2008 CanLII 2603 (ON SCDC).

and used in relation to meetings, consultations, discussions, or communications about the employment of the officer identified in the appellant's request. Finally, I explained that it appeared the meetings, consultations, discussions, or communications about the employment matter and the officer identified in the appellant's request would be considered an employment-related matter in which the police have an interest.

[13] I further advised that I considered the exceptions to the exclusion in section 52(4) of the *Act* and it was my preliminary view that none apply. Specifically, it did not appear the records were "agreements" within the meaning of the exceptions in sections 52(4)1 through 52(4)3 and not expense accounts within the meaning of section 52(4)4.

[14] In summary, I explained it was my preliminary assessment that the records are captured by section 52(3)3 and excluded from the operation of the *Act*. I further advised that it was my preliminary decision to decline to conduct an inquiry as authorized by section 8.03(f) of the *Code* and the appeal should be dismissed without an inquiry.

### **The appellant's response**

[15] In response to my preliminary letter, the appellant wrote to "add some context and nuance to [his] appeal." The appellant raises concerns with regard the police's conduct towards him and his concerns with police conduct generally. The appellant provided examples in which he experienced disruptions from various police members, including Ontario Provincial Police officers, Peel Regional Police officers, and the Greater/Grand Sudbury Police officers. I confirm I reviewed the appellant's representations but cannot address these incidents directly. The only issue before me is whether the records are excluded from the *Act* by section 52(3)3.

[16] Regarding the exclusion, the appellant submits the records were not collected, prepared, maintained, or used by the police. Rather, the appellant submits the complaints or information contained in the records reflecting the information contained in a complaint were "received passively" and serve as the "initial basis" for complaints. The appellant submits the complaints are "nothing more than information submitted to the institution" and ultimately, the institution creates its own documentation for the meetings, consultations, discussions, or communications. Regarding the third part of the test, the appellant alleges the police's "only interest here is avoiding accountability both for itself, and [its] member." The appellant submits the meetings, consultations, discussions, or communications may have concerned labour relations or employment-related matters in which the police have an interest; however, the initial information provided to the police "can certainly exist in a mutually exclusive way with regard to disciplinary records they ultimately create."

[17] The appellant claims the complaints themselves should be disclosed to him because they do not fit within the language of the exclusion.

[18] Finally, the appellant submits it is "offensive" that the police does not make

disciplinary records relating to officers' conduct in public, particularly where they relate to an officer's conduct with members of the public. The appellant submits the *Act* should not be used to allow institutions to operate in an opaque manner.

### **Findings and analysis**

[19] I have considered the appellant's response and remain of the view that the records before me are excluded by section 52(3)3 of the *Act*. The appellant takes the position that information relating to complaints filed against an officer are "received passively" by the police and amount to "nothing more than information submitted to the institution." This is not the case for the records before me. While the records may contain information that was provided by another party as part of their complaint, it appears the information was collected by the police and the records were maintained and used by the police in relation to meetings, consultations, discussions, or communications relating to employment-related matters (i.e. police conduct) in which the police have an interest. Therefore, I find the records are clearly subject to the exclusion at section 52(3)3 of the *Act*.

[20] Moreover, the information received or collected by the police regarding the officer's conduct cannot be severed from the records that would be excluded from the scope of the *Act*. I note that when considering the application of the exclusion at section 52(3), the IPC has consistently examined records as a whole rather than by individual pages, paragraphs, sentences or words. This whole-record method of analysis has been described as the "record by record approach."<sup>4</sup> Therefore, while the appellant appears to believe the records may be severed so any information provided by a complainant is disclosed to him, when section 52(3)3 applies, the records are excluded from the *Act* as a whole.

[21] In conclusion, I find it is clear the records are excluded by section 52(3)3 and I exercise my discretion under section 8.03(f) of the *Code* to decline to conduct an inquiry.

### **NO INQUIRY:**

For the foregoing reasons, no inquiry will be conducted under the *Act*. I dismiss the appeal.

Original Signed by: \_\_\_\_\_  
Justine Wai  
Adjudicator

\_\_\_\_\_ November 19, 2025

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<sup>4</sup> See, for example, Orders M-352, PO-3642, MO-3798-I, MO-3927 and MO-3947.