ALBERTA

OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER

ORDER FOIP2026-26

July 28, 2026

PUBLIC SAFETY AND EMERGENCY SERVICES

Case File Number 018110

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Summary: The Applicant made a request for access under the *Freedom of Information and Protection of Privacy Act* (the FOIP Act) to Public Safety and Emergency Services (the Public Body) for: "ASIRT final report for 2015-19(S) – […] Time period: January 1, 2015 to August 29, 2019." The ASIRT report documented an investigation of a fatal shooting involving members of the Calgary Police Service.

The Public Body located responsive records but severed information from them under sections 17(1) (disclosure harmful to personal privacy) and 20(1)(c), (k), and (l) (disclosure harmful to law enforcement). The Applicant requested review by the Commissioner of the Public Body's severing decisions.

The Adjudicator found that the names and identifying information of police officers was, in most cases not the personal information of the police officers, but information about them acting in a representative capacity. The Adjudicator found that there was some personal information in the records within the terms of section 17(1) and confirmed that the Public Body was required to refuse access to that information. The Adjudicator directed the Public Body to refuse access to the personal information in the records, but to remove the names and identifying information of the individuals the information was about and to give the remainder to the Applicant.

The Adjudicator found that section 20 did not authorize the Public Body to refuse access to information in the records.

Statutes Cited: AB: *Freedom of Information and Protection of Privacy Act,* R.S.A. 2000, c. F-25, ss. 1, 6, 17, 20, 72; *Police Act*, R.S.A 2000 c. P-17 s. 46.1

Authorities Cited: AB: Orders F2010-36, F2023-05; F2023-42 **ON:** MO-2911

Cases Cited: *Calgary Police Service v. Alberta (Information and Privacy Commissioner)*, 2010 ABQB 82 (CanLII); *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)*, 2014 SCC 31 (CanLII)

I. BACKGROUND

[para 1] The Applicant made a request for access under the *Freedom of Information and Protection of Privacy Act* (the FOIP Act) to Public Safety and Emergency Services (the Public Body) for: "ASIRT final report for 2015-19(S) – […] Time period: January 1, 2015 to August 29, 2019." The ASIRT report documented an investigation of a fatal shooting involving members of the Calgary Police Service.

[para 2] The Public Body located responsive records but severed information from them under sections 17(1) (disclosure harmful to personal privacy) and 20(1)(c), (k), and (l) (information harmful to law enforcement). The Applicant requested review by the Commissioner of the Public Body's severing decisions.

[para 3] The Commissioner agreed to conduct an inquiry and delegated the authority to conduct it to me.

II. INFORMATION AT ISSUE

[para 4] The information the Public Body severed from the requested records is at issue.

III. ISSUES FOR INQUIRY

ISSUE A: Does section 17(1) of the FOIP Act require the Public Body to refuse access to information in the records?

ISSUE B: Does section 20(1) of the FOIP Act authorize the Public Body to refuse access to information in the records?

IV. DISCUSSION OF ISSUES

ISSUE A: Does section 17(1) of the FOIP Act require the Public Body to refuse access to information in the records?

[para 5] Section 17(1) requires a public body to withhold the personal information of an identifiable individual when it would be an unreasonable invasion of the individual's personal privacy to disclose his or her personal information.

[para 6] Section 1(n) of the FOIP Act defines "personal information". It states:

1 In this Act,

(n) "personal information" means recorded information about an identifiable individual, including

(i) the individual's name, home or business address or home or business telephone number,

(ii) the individual's race, national or ethnic origin, colour or religious or political beliefs or associations,

(iii) the individual's age, sex, marital status or family status,

(iv) an identifying number, symbol or other particular assigned to the individual,

(v) the individual's fingerprints, other biometric information, blood type, genetic information or inheritable characteristics,

(vi) information about the individual's health and health care history, including information about a physical or mental disability,

(vii) information about the individual's educational, financial, employment or criminal history, including criminal records where a pardon has been given,

(viii) anyone else's opinions about the individual, and

(ix) the individual's personal views or opinions, except if they are about someone else […]

[para 7] Information is personal information within the terms of the FOIP Act if it is recorded and is about an identifiable individual.

[para 8] Section 17 sets out the circumstances in which a public body may or must not disclose the personal information of a third party in response to an access request. It states, in part:

17(1) The head of a public body must refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of a third party's personal privacy.

[…]

(4) A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy if

[…]

(b) the personal information is an identifiable part of a law enforcement record, except to the extent that the disclosure is necessary to dispose of the law enforcement matter or to continue an investigation,

[…]

(d) the personal information relates to employment or educational history,

[…]

(g) the personal information consists of the third party's name when

(i) it appears with other personal information about the third party, or

(ii) the disclosure of the name itself would reveal personal information about the third party[…]

[…]

(5) In determining under subsections (1) and (4) whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the head of a public body must consider all the relevant circumstances, including whether

(a) the disclosure is desirable for the purpose of subjecting the activities of the Government of Alberta or a public body to public scrutiny,

(b) the disclosure is likely to promote public health and safety or the protection of the environment,

(c) the personal information is relevant to a fair determination of the applicant's rights,

(d) the disclosure will assist in researching or validating the claims, disputes or grievances of aboriginal people,

(e) the third party will be exposed unfairly to financial or other harm,

(f) the personal information has been supplied in confidence,

(g) the personal information is likely to be inaccurate or unreliable,

(h) the disclosure may unfairly damage the reputation of any person referred to in the record requested by the applicant, and

(i) the personal information was originally provided by the applicant.

[para 9] Section 17 does not say that a public body is never allowed to disclose third party personal information. It is only when the disclosure of personal information would be an unreasonable invasion of a third party's personal privacy that a public body must refuse to disclose the information to an applicant under section 17(1). Section 17(2) (not reproduced) establishes that disclosing certain kinds of personal information is not an unreasonable invasion of personal privacy.

[para 10] When the specific types of personal information set out in section 17(4) are involved, disclosure is presumed to be an unreasonable invasion of a third party's personal privacy. To determine whether disclosure of personal information would be an unreasonable invasion of the personal privacy of a third party, a public body must consider and weigh all relevant circumstances under section 17(5) (unless section 17(3), which is restricted in its application, applies). Section 17(5) is not an exhaustive list and any other relevant circumstances must be considered.

[para 11] The records document an investigation conducted by ASIRT regarding a fatality. The Public Body severed information regarding the identities of police officers who conducted the wellness check that ultimately resulted in the death of the deceased person. The Public Body has also severed information regarding employees of a motel and emergency medical technicians (EMTs) from the records under section 17(1).

[para 12] Past orders have distinguished between information about persons acting in a "representative" or "professional" capacity and personal information. In Order F2023-42, the Adjudicator said at paragraphs 43 – 45:

> Many past Orders of this Office state that the disclosure of the names, contact information and other information about public body employees, that relates only to the employees acting in their professional capacities is not an unreasonable invasion of personal privacy under section 17(1) (see Orders 2001-013 at paras. 89-90, F2003-002 at para. 62, F2008-028 at para. 53) unless that information has a personal dimension in the circumstances. In other words, in the absence of a personal dimension, information cannot be withheld under section 17(1).
>
> Where section 17(1) was applied to business contact information (such as work phone numbers of public body employees or business employees), it is not information to which section 17(1) can apply unless there is a personal dimension.
>
> Past Orders of this office have also found there to be a personal dimension to information about an employee's work duties where it appears in the context of allegations of wrongdoing (e.g. investigations into the conduct, disciplinary proceedings, etc.). In Order F2010-031 the Adjudicator stated:
>
>> Information about an individual's performance of work duties may be personal information in a context where it is suggested or alleged that the individual has acted improperly or wrongfully (Order F2008-020, para. 28).

[para 13] Similarly, in Ontario Order MO-2911, the Adjudicator said:

> […] previous IPC orders have found that to qualify as personal information, the information must be about the individual in a personal capacity. As a general rule, information associated with an

> individual in a professional, official or business capacity will not be considered to be "about" the individual. Even if information relates to an individual in a professional, official or business capacity, it may still qualify as personal information if the information reveals something of a personal nature about the individual.

[para 14] In that case, the Adjudicator determined that the names and badge numbers of, and narratives written by, police officers, was not personal information as it was about the police officers acting in a professional or representative capacity. The Adjudicator held:

> The occurrence reports also include narratives written by the officers whose use-of-force equipment was lost or stolen. The police have disclosed these narratives to the appellant, but have withheld the officers' names. In my view, the information in these narratives relating to these officers is about their professional duties and does not reveal anything personal about them. Each of these individuals was assigned use-of-force equipment in their professional, not their personal capacity. Similarly, each officer had a professional duty to report the loss or theft of such equipment. The fact that these officers may be embarrassed by the disclosure of these narratives, in conjunction with their names, does not cause what is clearly professional information to be transformed into those officers' personal information.
>
> I find, therefore, that the information in the narratives written by the officers is associated with them in a professional, rather than a personal capacity. It does not reveal anything of a personal nature about them. Accordingly, I find that the information in these narratives does not qualify as their personal information.
>
> In short, I find that the officers' names, job titles, work contact information (business addresses and telephone numbers), badge numbers and the information in the narratives they provided, does not qualify as their personal information under the definition of that term in section 2(1). Instead, this information is associated with these officers in a professional capacity only. Given the personal privacy exemption in section 14(1) only applies to "personal information," I find that this information cannot qualify for exemption under that provision.

[para 15] Information about a representative of a public body acting solely in a professional or representative capacity will not be personal information subject to section 17(1) of the FOIP Act, even if the information is contained in a narrative. This is particularly so in relation to information about use-of-force equipment assigned to police officers for the purpose of carrying out professional duties on behalf of a police service. In contrast, information that reveals something of a personal nature about the representative as an individual will be personal information to which section 17(1) can apply.

Information about police officers

[para 16] I note that only one police officer is listed on the cover page of the ASIRT report as a "subject officer" in the investigation. The authority for the investigation is section 46.1 of the *Police Act (*as it was at the time of the report). This investigation does not appear to be disciplinary in nature or a criminal investigation, despite the Public Body's characterization of the investigation. Instead, the investigation began because a death resulted from the actions of police officers.

[para 17] When information is about a police officer performing policing duties in a representative capacity, it is about the actions of a public body the police officer represents, and

is not personal information about the police officer as a private individual. In contrast, if information has a personal dimension, such as information about a police officer's private thoughts, personal life, or disciplinary proceedings regarding complaints about a police officers' conduct, the information will be personal information to which section 17(1) may apply.

[para 18] In Order F2023-05 the Adjudicator said at paragraph 25:

> While the Applicant has the burden of proving that it would not be an unreasonable invasion of privacy to disclose personal information to which section 17(1) applies, the Public Body has the burden of establishing that the information withheld under section 17(1) is personal information to which that provision can apply (Order F2010-002, at para. 9).

When information is about representatives of a public body, the onus is on the public body seeking to rely on section 17(1) to establish that this provision can apply. It may do so by submitting or adducing evidence to establish that information about representatives has a personal dimension.

[para 19] I turn first to the question of whether the personal information of police officers in the records is their personal information.

Is the information about police officers in the records their personal information?

[para 20] The Public Body argues that the information about the actions of police officers in the records is their personal information. The Public Body argues:

> The records relate to an investigation of officers involved in the shooting causing bodily harm to the subject, by the ASIRT. The non-subject officers were identified as being directly or indirectly involved with the incident leading to the shooting and were witnesses. Partial disclosure was granted to the records of which an investigation was launched involving officers who caused the death of the subject. This information includes names and statements which if released could be used to identify the officers and witnesses who provided these statements in confidence. Additionally, the names of persons providing their opinions or views about a third party and statements provided in confidence which contain personal opinions of another actions cannot be released as this is an unreasonable invasion of personal privacy. Furthermore, due to the circumstances surrounding the incident, the names of persons who provided opinions and descriptions in their statements may likely be inaccurate or unreliable and disclosure may unfairly damage the reputation of those persons referred to in the records. Therefore, the names and any information pertaining to the officers and witnesses have been withheld under section 17(1) of the FOIP Act.

The Public Body indicates that it considers the names and other personally identifying information of the police officers to be personal information subject to section 17(1) because the police officers were involved in the incident. The Public Body did provide information from the report to the Applicant, but with the personally identifying information of the police officers severed. It indicates that it considers information about officers "directly or indirectly involved with the incident" to be personal information about them.

[para 21] It is unclear from the evidence or the public body's submissions that the information in the records has a personal dimension or relates to a matter with personal

consequences for the officers whose names have been severed by the Public Body. While it is possible that the actions of the officers documented in the records led or could lead to personal consequences, any such consequences are not documented in the records and it is not inferable from the information in the records that any of them would be likely to become the subject of a complaint or other personal consequences such as disciplinary action. The Public Body has not supported its arguments with evidence.

[para 22] The Applicant argues that information in the records about the police officers involved in the incident is not personal information, but information about the officers acting in a professional or representative capacity:

> The ASIRT investigation was authorized by section 46.1 of the Police Act. As a pre-requisite to this investigation, an incident needed to occur which involved serious injury or death to a person resulting from the actions of a police officer. As noted in the ASIRT report, the 3 officers in this incident were responding to a "check on welfare" complaint (ASIRT report, p 6). Five uniformed, on-duty police officers responded to the call. They forced entry into the hotel room by kicking in the doorway (ASIRT report, p 15). These are all actions taken by police officers in their professional capacity. The fact that these records relate to police officers acting in their professional capacity removes their names from the realm of personal information. The names of individual police officers acting as police officers is not personal information. The relevant incident occurred while all of the officers were uniformed, on duty and acting in the course of their duties. The records should therefore be disclosed without the redactions applied. The Public Body's remaining arguments assume that the records constitute personal information and that other factors justify non-disclosure of the records. Even if the Public Body was correct, the arguments advanced still fail.

[para 23] The Applicant argues with regard to witness statements in the records:

> […] The names of police officers who witness a serious incident do not constitute personal information. In providing witness statements, these police officers were acting in their professional capacities, as required under the Police Act and Police Service Regulation. There is no basis for concluding that police officers giving statements are somehow acting in their personal capacity or going above and beyond their employment duties. The records should be unredacted and disclosed in their entirety.

[para 24] The ASIRT investigation for which the records were created was conducted under the former section 46.1 of the *Police Act*. This provision stated at the time of the incident:

> *46.1(1) The chief of police shall as soon as practicable notify the commission and the Minister where*
>
> > *(a) an incident occurs involving serious injury to or the death of any person that may have resulted from the actions of a police officer, or*
> >
> > *(b) a complaint is made alleging that*
> >
> > > *(i) serious injury to or the death of any person may have resulted from the actions of a police officer, or*

> *(ii) there is any matter of a serious or sensitive nature related to the actions of a police officer.*
>
> *(2) The Minister, when notified under subsection (1) of an incident or complaint or on the Minister's own initiative where the Minister becomes aware of an incident or complaint described in subsection (1), may do any one or more of the following:*
>
> *[…]*
>
> *(d) in accordance with section 46.2, direct the head of an integrated investigative unit to conduct an investigation into the incident or complaint, which may include taking over an ongoing investigation at any stage.*

[para 25] Section 46.1(1)(a) applies automatically when the death of an individual may have resulted from the actions of a police officer. It requires an investigation into the incident at the direction of the Minister, regardless of whether there is evidence, or an allegation of, police misconduct under section 46.1(1)(b).

[para 26] The purpose of the investigation is described in the report in the following terms:

> ASIRT has been assigned to conduct an independent and objective investigation to determine whether the actions of Constable […] of the Calgary Police Service, were legal and justified in relation to the shooting death of [the deceased] on March 16, 2015.

While the foregoing statement indicates that the investigation is to determine whether the actions of the subject officer were legal and justified, there is no indication that there was a suspicion of wrongdoing by the subject officer or any of the officers referenced in the records. Again, the investigation was conducted as a result of a death and there is no indication that it was being conducted in relation to a complaint of misconduct.

[para 27] I note the following information from record 90 of the requested records:

> To understand how the incident evolved, ASIRT investigators considered the training of the CPS officers, and how that training may have influenced their decision making process with respect to tactics.

[para 28] This information indicates that ASIRT was also investigating the extent to which the training and policies of the police service whose officers were involved in the incident. The investigation was not limited to reviewing the actions of one officer, but all officers and the policies of the police service that gave rise to the serous incident.

[para 29] In Order F2023-05 the Adjudicator determined that information about officers who were subject officers in an ASIRT investigation was personal information. She said:

> The Applicant disagrees with this characterization, arguing (rebuttal submission, at para. 19):
>
>> No reference is contained in the record to any police disciplinary record. This is an investigative report which summarizes facts, not a record of any disciplinary proceeding.

> > There is no evidence that the witness officers whose names were redacted were under investigation or subject to any disciplinary action.
>
> The reports both state that ASIRT was assigned to conduct investigations into whether the actions of the named officers were legal and justified with respect to the force used during the incident. The investigations were initiated under sections 46.1 and 46.2 of the *Police Act*. These investigations could lead to criminal charges, or disciplinary action (section 46.1(4) of the *Police Act*). Therefore, the personal information of the officers whose conduct is being investigated has a personal dimension, as their professional conduct is being investigated for possible wrongdoing. The proceedings needn't themselves result in charges or disciplinary actions for this to be the case.

The Adjudicator in the foregoing case found the ASIRT investigation to be disciplinary in nature, relying in part on the description of the report as an investigation as to whether the actions of the police officers were legal and justified. The report in this case uses the same language. A distinguishing factor in the case before me is that the ASIRT investigation was not struck to investigate allegations or complaints of misconduct on the part of the police officers referenced in the records. The investigation is, at least in part, to find facts as to how police action(s) contributed to the death documented in the records. It was also intended to assess whether policies of the police service and training by the police service of police officers contributed to the occurrence and if so, how.

[para 30] The inclusion of the names and actions of police officers in the records does not clearly have a personal dimension. Instead, the information about police officers in the records is, with limited exceptions, about them acting in a professional capacity as members of a police service. I find that such information is not information to which section 17(1) can apply.

[para 31] With regard to information about the subject officer in the case before me, I note that the basis of the investigation appears to differ from the investigation conducted in Order F2023-05. In that case the conduct of officers was under investigation for possible wrongdoing, and the investigation could lead to a criminal charge. This contrasts to the case before me in which the ASIRT investigation appears to have been predicated by a death or serious incident, and not a complaint of misconduct on the part of an officer. That is, the incident itself is the focus of the investigation and not necessarily wrongdoing on the part of anyone. If potential wrongdoing were found, that would be the subject of another investigation. While it would be open to the investigator to conclude that a police officer may have exceeded lawful authority, it would also be open to the investigator to conclude that the policies of a police *service*, rather than a police *officer,* were unsatisfactory and required review, or that all police officers and the police service complied with legislation and acted within authority.

[para 32] While the report indicates that the purpose of writing it was to determine whether the actions of the subject officer were legal and justified, it does not decide that issue. The information I have reviewed in the report, with limited exceptions, is about the subject officer and other police officers acting as representatives of the Calgary Police Service. There are no findings of wrongdoing or recommendations regarding discipline. The report does not find that anyone used excessive or illegal force.

[para 33] Section 46.1(4) of the *Police Act* sets out to whom a report should be given and in what circumstances:

46.1(4) If the chief of police or police officer in charge of the police service conducting an investigation under subsection (2)(b) or (d) is of the opinion that the actions of the police officer that are the subject of the investigation constitute

> *(a) an offence under an Act of the Parliament of Canada or the Legislature of Alberta, the chief or police officer shall*
>
> > *(i) refer the matter to the Minister of Justice and Solicitor General, and*
> >
> > *(ii) advise the commission and the chief of police of the police service under investigation of the chief's or police officer's findings, unless the Minister of Justice and Solicitor General otherwise directs,*
>
> *(b) a contravention of the regulations governing the discipline or performance of duty of police officers, the chief or police officer shall refer the matter to the chief of the police service under investigation where it concerns the actions of a police officer, or to the commission where it concerns the actions of the chief of police, to be dealt with in accordance with this Part,*
>
> *(c) a matter of the policies of or services provided by the police service under investigation, the chief or police officer shall refer the matter to the commission.*

A report regarding a serious incident could address policies, misconduct, or authorized conduct. There is no indication in the legislation that the Minister of Justice or a police chief would be bound to comply with any recommendations or findings in the report. It is not the case that an investigation of the kind at issue would always lead to disciplinary proceedings against an officer or be intended to lead to such proceedings.

[para 34] The investigation report concludes with the following statement:

> This dichotomy generates the question of why was lethal force used in the most recent encounter. What separates this incident from the previous incidents is the presence of a syringe and the belief by the witness officers that it was capable of causing grievous bodily harm. What requires further consideration is whether the force used in this instance met the principles of proportionality, necessity, or reasonableness.

The foregoing statement does not find that any of the officers who were involved in the shooting had contravened legislation or were guilty or not guilty of anything. The report does not state that anyone used excessive force. The report simply documents incidents in which members of the Calgary Police Service were involved as police officers and finds facts regarding the incident under investigation and other incidents involving the deceased. The final recommendation is for further consideration as to the force used. The report does not make findings of culpability or misconduct in relation to any police officers involved in the incident.

[para 35] Police officers carry weapons in the course of carrying out their duties. They are armed with weapons such as guns and TASERs because it is anticipated that they may need to

use such weapons to carry out police duties. I agree with the Applicant that police officers do not use force as private citizens. The fact that the use of force by a police officer resulted in death does not mean that a police officer acted outside the course of employment or that information about the use of force or involvement in an incident in which force is used is personal information.

[para 36] When use of force results in a death, as happened in this case, there is an investigation under section 46.1 of the *Police Act* into that use of force. This is done to ensure public confidence and to determine whether the use of force is properly regarded as police action. A criminal or disciplinary investigation would only take place if it were found that a police member used more force than was necessary for carrying out police duties. In this case, the investigation determined how the incident unfolded and how similar incidents unfolded but did not make findings as to whether the use of force was appropriate or inappropriate. The investigation did not conclude with a recommendation that anyone be charged with anything.

[para 37] If the investigation were intended to address a complaint of misconduct on the part of the subject officer, then information about the subject officer would be personal information. The investigation would have personal consequences for the subject officer as an individual. In this case, the incident is being investigated automatically because police action resulted in death. It cannot be inferred from the fact that ASIRT conducted an investigation that the police officer whose conduct led to the death of an individual was suspected of misconduct, committed misconduct, or was being investigated for misconduct. The report indicates that further consideration of the use of force was required but does not refer to the particular use of force by any police officers or conclude that anyone used excessive force. Further review of the use of force could involve further review of the Calgary Police Service's use of force policies.

[para 38] From my review of the records at issue, I find that the police officers that were involved in the incident acted as representatives of a police service in their professional capacities and were acting in the course of their employment. They also made statements to the ASIRT investigator in the course of their employment. The fact that conducting employment duties resulted in a death does not mean that the police officers acted as private citizens on their own behalf or that information about their performance of duties, without more, is anything other than information about them acting in a representative capacity.

[para 39] The Public Body argues:

> In this instance, the police member's disciplinary records, work schedules, job titles, work related experiences are considered to form a part of their employment history and must be withheld. Additionally, the members' and EMTs' educational backgrounds not relating to the subject adds another dimension to the personal information that would be an invasion of privacy if disclosed (see page 14, 85, 87, 105, 116 and 132 of the records). Disclosure of this information with be an unreasonable invasion of privacy for those parties.

[para 40] While I do not agree with the Public Body that "job titles" are personal information in the context of the records, I agree that any references to discipline, schedules and employment history may be personal information subject to section 17. I will address that information under the heading "personal information of police officers".

[para 41] A job title is a title assigned to an employee by a public body and it is used by the employee to represent the public body. The job title does not confer authority when the employee is not representing the public body. A job title is not personal information unless the job title would somehow reveal personal information about the holder of the job title. An example where a job title would be personal information would be a sentence such as: "Only the staff sergeant was on vacation that week." This in contrast to a sentence such as "The staff sergeant drew her weapon at the suspect." In the latter sentence, the staff sergeant is acting in a representative capacity and the job title is not personal information.

[para 42] The fact that a public body's employees are involved in work incidents does not make their role in the incident "personal". If the employees are representing their employer, or a police service, their role in the incident is not "employment history" within the terms of section 17(4)(e). It is when a police officer's performance of their role is the subject of proceedings or actions affecting their career that the information may become employment history subject to section 17(4)(e) of the FOIP Act.

[para 43] While I find below that there is some personal information about police officers in the records, I am unable to agree with the Public Body's view that the names of police officers acting in a representative capacity is personal information subject to section 17(1) simply because they were involved in the incident.

[para 44] The Public Body argues that statements made to the investigator were made in confidence. The Public Body does not provide the source of its information regarding its belief in the confidentiality of its information. Absent evidence to that effect, I am unable to say that the police officers or other witnesses would have any authority to impose conditions of confidentiality regarding their statements on the ASIRT investigator. The ASIRT investigator does not refer to promises of confidentiality in the report.

[para 45] I note, too, that the Public Body severed information about objects and police equipment, rather than information about people. Records 20 and 21 contain examples of this kind of severing.

[para 46] The Public Body also severed information about the training the Calgary Police Service requires of police officers. I find that this training, and whether the police officers took this training, is not personal information. This information is about the Public Body's requirements for police officers to represent it in a professional capacity and how the requirements were being met.

[para 47] To conclude, I find that section 17(1) does not apply to most of the information relating to police officers the Public Body severed from the records with the exception of some information, which I will set out below. I also find that section 17(1) does not apply to equipment used by police in the course of carrying out policing duties.

Information about EMS (emergency medical services) employees

[para 48] The Public Body severed information that would serve to identify EMS employees. In some cases, it severed information regarding the training and experience of EMS employees. I find that most of the information about EMS employees, where they are identified

by the investigator, is not personal information. Instead, the information about EMS employees is about them acting in a representative capacity in the performance of their work duties. When EMS employees accompany police officers to provide emergency medical services they are not acting as private citizens but as representatives of a public body.

[para 49] The EMS employees provided information about their training and methods to the investigator to explain why they interpreted various situations involving the deceased in the way that they did and why they provided particular treatment. These situations all took place in the course of their employment as EMTs. The training described in the records is training that EMTs are required to take annually.

[para 50] On records 110 and 123, there is some biographical information of an EMS employee regarding other countries in which the employee worked. There is similarly some biographical information about an EMT's service in a city other than Calgary. That information has a personal dimension and is personal information within the terms of section 17(1).

[para 51] I am unable to find that the information severed by the Public Body regarding the identities of EMS employees is personal information other than the information on record 110.

Information about motel employees and individuals

[para 52] I find that personally identifying information of motel employees is the personal information of the motel employees. The motel employees did not clearly act in a representative capacity in their interactions with the police in the records; there is no indication that they were following motel policy or procedures. The motel employees did not act as representatives of the motel when they participated in investigations. Rather, they participated as private individuals who had witnessed events.

[para 53] Although I find that the names of the motel employees is personal information, I find that the Public Body has severed information that is not personally identifying and is therefore not personal information once identifiers, such as names, are severed. In all cases it has severed pronouns of the employees; there is no clear evidence that the pronouns of the employees would serve to identify them once the names of the employees are removed from the records.

Information about private individuals

[para 54] The Public Body severed personally identifying information of individuals whose interactions with the deceased are documented in the records. Examples of this severing are on record 33, where the Public Body severed the identity of an acquaintance of the deceased and on another record where it severed the address of a private dwelling. Such information is personal information.

Personal information of police officers

[para 55] Record 14 contains personal information about a police officer. The first and third paragraphs contain personal information regarding the police officer. The second

paragraph does not contain personal information, but information about the police officer acting in a professional capacity. When I refer to the personal information on record 14, I am speaking about the first and third paragraphs only.

[para 56] Record 30 also contains personal information about a police officer in the second last paragraph as the information is about the police officer as an individual.

[para 57] Record 36 contains personal information about a police officer.

[para 58] In the second last paragraph of record 41, there is a description of the effect of an event on a police officer as an individual. I find that this information is personal information.

[para 59] Record 44 describes the biographical history of a police officer. I find that this information is personal information.

[para 60] The middle paragraph of record 54 contains information about the personal history of a police officer. I agree with the Public Body that this paragraph is personal information.

Section 17(1)

[para 61] I turn now to the question of whether section 17(1) of the FOIP Act requires the Public Body to refuse access to the information I find to be personal information of police officers, EMTs, motel employees, and individuals.

[para 62] The Public Body's arguments refer to *Calgary Police Service v. Alberta (Information and Privacy Commissioner)*, 2010 ABQB 82 (*Calgary Police Service*), a decision of the Court addressing the application of section 17(5)(a) to allegations of police misconduct. At paragraph 88, the Court said:

> The Commissioner's decision treats all police disciplinary decisions as one common product. Decisions resulting from allegations of criminal misconduct are treated the same as decisions flowing from simple administrative misconduct. Decisions based upon proven allegations are treated the same as those arising from baseless allegations. Decisions arising even from allegations that are withdrawn are placed in the same disclosure basket as those that proceed to a conviction (paragraph 73 and 84). The personal information – names and identification numbers – of officers against whom allegations have been withdrawn or proven baseless are placed in that same disclosure basket as the names and identification numbers of those guilty of misconduct, including criminal misconduct (paragraphs 77 - 79).

[para 63] While the foregoing case is binding authority when the personal information of police officers subjected to disciplinary proceedings is at issue, I find that it has no application in this case. As discussed above, the investigation has not been established to have been disciplinary. There is no evidence before me that would support finding that the investigation was intended to explore complaints of misconduct made about the officers whose actions on behalf of the Calgary Police Service are documented in the records.

[para 64] The information I have found to be personal information meets the terms of section 17(4)(e) in some cases as it is about employment history, and in all cases 17(4)(g), as it consists of an individual's name in the context of other facts about them.

[para 65] I am unable to identify any factors that would outweigh the presumption created by section 17(4) with regard to this personal information. As a result, I find that the information I have identified as the personal information of police officers, EMTs, motel employees and individuals is subject section 17(1) and the Public Body is required to refuse access.

Severing

[para 66] When a public body is required to refuse access to information, section 6 of the FOIP Act requires it to consider severing the information and to provide the remainder to the applicant.

[para 67] Section 6 of the FOIP Act states, in part:

> *6(1) An applicant has a right of access to any record in the custody or under the control of a public body, including a record containing personal information about the applicant.*
>
> *(2) The right of access to a record does not extend to information excepted from disclosure under Division 2 of this Part, but if that information can reasonably be severed from a record, an applicant has a right of access to the remainder of the record.*

[para 68] The Public Body has, in many cases, severed more information than section 17(1) reasonably requires. Once the name of an individual and any identifiers have been removed from the records there is no need to remove other information. (The term "identifiers" refers to information that would serve to identify an individual, such as names, addresses, job title, and familial relationships.)

[para 69] As an example of excessive severing, the Public Body severed the bottom of paragraph 78 and the top paragraph of record 79 under section 17(1). Once the Public Body severs the name of the individual and associated phone numbers from the records, the remaining information does not serve to identify an individual and may be disclosed to the Applicant without offending section 17(1).

[para 70] The Public Body has severed pronouns from the records in situations where the pronoun would not serve to identify an individual. While I accept that there can be situations where a pronoun may serve to identify someone where there is a small, defined pool of individuals the information could be about, in this case, it is unclear how the individual referenced in record 79 could be identified if the name and phone numbers associated with the individual are removed. The same holds true for other pronouns severed by the Public Body. Either the pronoun refers to a police officer or EMT acting in a professional capacity, in which case the pronoun is not personal information to which section 17(1) can apply, or the pronoun refers to an individual who cannot be identified once information such as names, addresses, familial relationships or phone numbers has been removed from the records.

[para 71] I will confirm the Public Body's decision to refuse access to information I have found to be personal information. I will require the Public Body to sever personally identifying information such as names, addresses and familial relationships or phone numbers from the records, but not the information of police officers or EMTs acting in professional capacities. I will direct the Public Body to give the Applicant access to the remaining information.

ISSUE B: Does section 20(1) of the FOIP Act authorize the Public Body to refuse access to information in the records?

[para 72] The Public Body severed an overview of how Tasers operate from records 82 - 83. The Public Body severed information cited from the Calgary Police Service's force training manual. The information describes the setting and circumstances in which a particular police tool may be used.

[para 73] The Public Body severed information from records 82 – 84, and 86, citing sections 20(1)(c), (k) and (l). These provisions state:

> *20(1) The head of a public body may refuse to disclose information to an applicant if the disclosure could reasonably be expected to*
>
> > *(c) harm the effectiveness of investigative techniques and procedures currently used, or likely to be used, in law enforcement,*
> >
> > *[…]*
> >
> > *(k) facilitate the commission of an unlawful act or hamper the control of crime,*
> >
> > *(l) reveal technical information relating to weapons or potential weapons […]*
>
> *[…]*

[para 74] Section 20(1)(c) authorizes a public body to refuse access to information that can reasonably be expected to harm the effectiveness of investigative techniques if disclosed. To establish that section 20(1)(c) authorizes it to refuse access, a public body must point to a particular investigative technique that is revealed by information in the records and explain why it believes disclosure could reasonably be expected to result in the technique becoming less effective. The Legislature elected to restrict section 20(1)(c) to "investigative" techniques, as opposed to "policing" or "law enforcement" techniques, which indicates the information that may be severed under this provision relates to techniques used to conduct investigations.

[para 75] Section 20(1)(k) authorizes a public body to refuse access to information that could reasonably facilitate the commission of an unlawful act or hamper the control of crime. If the disclosure of information could reasonably be expected to enable the commission of a crime or to hamper the ability of law enforcement agencies or members to control crime then section 20(1)(k) is engaged.

[para 76] Section 20(1)(l) authorizes a public body to refuse access to information that could reasonably be expected to reveal technical information relating to weapons. The term

“technical” is not defined in the FOIP Act, but in the context of this provision, the term appears to mean “specialized” or “not widely known”. I say this because there would be little purpose in permitting a public body to withhold commonly known or readily available information.

[para 77] In Order F2010-36, I adopted the following definition of “technical information” where the term appears in section 16:

> Defining "technical" for the purposes of section 16(1)(a) as referring to information "relating to a particular subject or craft" is consistent with the idea that technical information is information belonging to a third party that has to do with applied sciences and mechanical arts. Technical information, in essence, is information about such things as specialized designs, methods, and technology.

As the Legislature is presumed to use language consistently, I find that technical information in section 16 is likely to have a similar meaning to “technical information” in section 20.

[para 78] In *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)*, 2014 SCC 31 (CanLII), the Supreme Court of Canada confirmed that when access and privacy statutes refer to reasonable expectations of harm, a party seeking to rely on the exception must demonstrate that disclosure will result in a risk of harm that is beyond the merely possible or speculative. The Court stated:

> It is important to bear in mind that these phrases are simply attempts to explain or elaborate on identical statutory language. The provincial appellate courts that have not adopted the “reasonable expectation of probable harm” formulation were concerned that it suggested that the harm needed to be probable: see, e.g., *Worker Advisor*, at paras. 24-25; *Chesal v. Nova Scotia (Attorney General)*, 2003 NSCA 124 (CanLII), 219 N.S.R. (2d) 139, at para. 37. As this Court affirmed in *Merck Frosst*, the word “probable” in this formulation must be understood in the context of the rest of the phrase: there need be only a “reasonable expectation” of probable harm. The “reasonable expectation of probable harm” formulation simply “captures the need to demonstrate that disclosure will result in a risk of harm that is well beyond the merely possible or speculative, but also that it need not be proved on the balance of probabilities that disclosure will in fact result in such harm”: para. 206.
>
> Understood in this way, there is no practical difference in the standard described by the two reformulations of or elaborations on the statutory test. Given that the statutory tests are expressed in identical language in provincial and federal access to information statutes, it is preferable to have only one further elaboration of that language; *Merck Frosst*, at para. 195:
>
>> I am not persuaded that we should change the way this test has been expressed by the Federal Courts for such an extended period of time. Such a change would also affect other provisions because similar language to that in s. 20(1)(c) is employed in several other exemptions under the Act, including those relating to federal-provincial affairs (s. 14), international affairs and defence (s. 15), law enforcement and investigations (s. 16), safety of individuals (s. 17), and economic interests of Canada (s. 18). In addition, as the respondent points out, the “reasonable expectation of probable harm” test has been followed with respect to a number of similarly worded provincial access to information statutes. Accordingly, the legislative interpretation of this expression is of importance both to the application of many exemptions in the federal Act and to similarly worded provisions in various provincial statutes. [Emphasis added in original.]

> This Court in *Merck Frosst* adopted the "reasonable expectation of probable harm" formulation and it should be used wherever the "could reasonably be expected to" language is used in access to information statutes. As the Court in *Merck Frosst* emphasized, the statute tries to mark out a middle ground between that which is probable and that which is merely possible. An institution must provide evidence "well beyond" or "considerably above" a mere possibility of harm in order to reach that middle ground: paras. 197 and 199. This inquiry of course is contextual and how much evidence and the quality of evidence needed to meet this standard will ultimately depend on the nature of the issue and "inherent probabilities or improbabilities or the seriousness of the allegations or consequences": *Merck Frosst*, at para. 94, citing *F.H. v. McDougall*, 2008 SCC 53 (CanLII), [2008] 3 S.C.R. 41, at para. 40.

[para 79] Section 20(1) employs the phrase "could reasonably be expected to". As a result, the onus is on the Public Body to establish that it has a reasonable expectation of probable harm in relation to disclosure of the information to which it has refused access.

[para 80] The Public Body argues:

> The records at issue arise from an investigation conducted by the Alberta Serious Incident Response Team (ASIRT), which is a law enforcement body responsible for independently investigating incidents involving police where serious injury or death may have occurred, or where police conduct is alleged to be unlawful. These investigations can lead to criminal charges or other sanctions and therefore would fall directly within the definition of "law enforcement" under section 1(h) of the FOIP Act.
>
> The Public Body applied section 20(1)(c) to protect information whose disclosure could reasonably be expected to harm the effectiveness of investigative techniques and procedures used in law enforcement. The information at issue consists of detailed tactical training materials and operational approaches used by Calgary Police Service officers in forced entry situations, which were reviewed as part of the ASIRT investigation.
>
> Although ASIRT is an independent investigative body, its investigations rely on assessing police tactics, decision-making, and operational responses in dynamic and high-risk situations. Disclosure of the severed information would reveal how officers are trained to plan and execute forced entries, including tactical sequencing, role assignment, and response strategies. This would allow individuals to anticipate police actions and adapt their behaviour to evade or resist law enforcement intervention.
>
> In the context of ASIRT investigations, such disclosure could also undermine the integrity of future investigations by exposing the very techniques and operational standards that ASIRT must evaluate. If those techniques are publicly known, their evidentiary and analytical value in future investigations may be diminished.
>
> Accordingly, disclosure could reasonably be expected to reduce the effectiveness of investigative and enforcement techniques currently relied upon by police services, satisfying the harms test under section 20(1)(c).
>
> Section 20(1)(k) was applied because disclosure of the records could reasonably be expected to facilitate the commission of an unlawful act or hamper the control of crime. The records contain detailed descriptions of methods, tools, and tactical approaches used by police to gain entry to premises in various enforcement scenarios.

> In the context of an ASIRT investigation, this information reflects real-world police responses to potentially volatile or criminal situations. Disclosure would provide individuals with insight into how police approach forced entry, including timing, positioning, and tool use. This information could reasonably be expected to be used by individuals engaged in unlawful activities to delay or resist police entry, destroy evidence, or create hazardous conditions for responding officers.
>
> Given the operational specificity of the information, the harm is not speculative. Disclosure would provide a tactical advantage to those seeking to evade law enforcement, thereby hampering police efforts to control crime and respond safely to high-risk situations.
>
> The Public Body also applied section 20(1)(l) to protect technical information relating to weapons or potential weapons. The records include information relating to the tools and equipment used during forced entry operations, as analyzed within the ASIRT investigation. This information does not merely identify equipment but reveals how such tools are deployed in operational settings, including their tactical application and effectiveness in specific scenarios. Disclosure would provide individuals with insight into police capabilities and limitations, which could be used to counter or neutralize those tools during future interactions with law enforcement.
>
> In the context of ASIRT investigations, which often involve scrutiny of use-of-force and tactical decisions, maintaining the confidentiality of such technical and operational details is essential to preserving both officer safety and the continued effectiveness of law enforcement responses. Accordingly, there is a reasonable expectation that disclosure would result in the harms considered under section 20(1)(l).

[para 81] The Public Body does not explain, with reference to the information it severed from the records, why it believes its disclosure could lead to a reasonable expectation of probable harm set out in section 20 of the FOIP Act. The Public Body explains general assumptions on which it relied to apply section 20, but does not explain how the particular information it severed could result in the harms it speculates could result from disclosure. The Public Body did not describe the investigative techniques it considered be revealed by disclosure.

Section 20(1)(c)

[para 82] From my review of the severed information, I am unable to say that investigative techniques or procedures used by ASIRT or the Calgary Police Service would be revealed by its disclosure, or that any such technique would be reasonably likely to become less effective. The Public Body has not pointed to investigative techniques in the records or explained how such would be revealed. Moreover, it is unclear how any such techniques would become less effective through disclosure. I find that the Public Body has not established that section 20(1)(c) applies to the information it severed under this provision.

Section 20(1)(k)

[para 83] The Public Body states that it applied section 20(1)(k) to sever information in the records because the information refers to tactical strategies employed by police officers. The Public Body has not explained how release of this information could reasonably be expected to facilitate the commission of an offence or to hamper the control of crime. It speculates that disclosure might undermine the ability of police officers to gain entry, but it does not explain why it thinks this is a reasonably likely outcome of disclosure. In the absence of any argument as

to how disclosure of the severed information could reasonably be expected to have this effect, I am unable to speculate. It is unclear how the severed information could be used to commit offences or to limit the ability of police services or police officers to control crime.

[para 84] I find that section 20(1)(k) does not apply to the information in the records.

Section 20(1)(l)

[para 85] While there is information about weapons employed by police services in the records, I am unable to say it is technical information. The information is about the weapons generally and not about specific models. The Public Body characterizes the information as "tactical"; however, the information itself is silent as to how police officers could use the weapons tactically or to gain an advantage. The information about the Taser consists of basic facts about how Tasers work; the same or more detailed information can be found on Wikipedia and the manufacturer's website. The information is comparable to a statement such as "guns fire bullets." I am unable to find that the information severed by the Public Body is sufficiently specialized to be characterized as "technical information". I find that section 20(1)(l) does not apply to the information the Public Body severed from the records.

[para 86] For the reasons above, I find that section 20(1) of the FOIP Act does not authorize the Public Body to refuse access to the information to which it applied this provision.

V. ORDER

[para 87] I make this order under section 72 of the FOIP Act.

[para 88] I require the Public Body to refuse access to the information I have found to be personal information in this order. I require the Public Body to sever the information I have found to be personal information from the records and to give the Applicant access to the remaining information in the records.

[para 89] I order the Public Body to inform me within 50 days of receiving this order that it has complied with it.

____

Teresa Cunningham
Adjudicator