

FEDERAL COURT

BETWEEN:

KEVIN A. McLEAN

Applicant

and

ROYAL CANADIAN MOUNTED POLICE, MICHAEL DUHEME, JEFF BALL, and STEPHANE
BRISSON

Respondents

REASONS FOR ORDER or REASONS FOR
JUDGMENT with ORDER at Appendix A

(Issued concurrently with the Order dated _____, 2026)

Table of Contents

Court File No. T-2448-26 1

FEDERAL COURT 1

REASONS FOR ORDER 1

 I. INTRODUCTION 5

 II. PROCEDURAL HISTORY 5

 A. Service of the Notice of Application and Rule 317 Request 5

 B. Failure to Transmit the Certified Tribunal Record 5

 C. Motion in Writing (NOM #1) 6

 D. Requisition for Hearing (Form 314) 6

 E. Supplemental Application Record (June 22, 2026) 6

II. FACTUAL BACKGROUND	6
839 Privacy Act Request (March 11, 2026)	6
B. ATIA Request #1 (April 14, 2026)	7
C. ATIA Request #2 (May 7, 2026)	8
D. The False Information Package	8
E. The Tripartite Contradiction	9
(1) Privacy Act Request	9
(2) ATIA Request #1	9
(3) ATIA Request #2	9
REASONS FOR ORDER — PART III	10
III. ISSUES	10
Issue 1 — Whether the RCMP breached its statutory duty to conduct a reasonable search under the Privacy Act	10
Issue 2 — Whether the RCMP breached its duty to assist and duty to make every reasonable effort to locate records	10
Issue 3 — Whether the RCMP Commissioner failed to exercise his mandatory statutory discretion under s. 8(2)(m) of the Privacy Act	11
Issue 4 — Whether the RCMP’s failure to comply with Rule 318 constitutes a breach of procedural duty warranting judicial intervention	11
Issue 5 — Whether the RCMP’s contradictory positions across the Privacy Act Request, ATIA #1, and ATIA #2 constitute evidence of bad faith, procedural unfairness, or jurisdictional error	11
Issue 6 — Whether the Applicant is entitled to prerogative relief in the nature of mandamus	12
Issue 7 — Whether the Applicant is entitled to prerogative relief in the nature of prohibition	12
Issue 8 — Whether the Applicant is entitled to declaratory relief	12
Issue 9 — Whether the Court should remain seized to supervise compliance	12
Issue 10 — Whether solicitor-client costs are warranted	13
REASONS FOR ORDER — PART IV	13
IV. ANALYSIS	13
Segment 1 — The Duty to Search Under the Privacy Act	13
A. The Statutory Framework	13
B. The RCMP’s “Live Query” Was Not a Search	14
C. The RCMP’s Assertion That It “Cannot Search Files Belonging to Other Police Forces” Is Incorrect in Law	14
(1) The jurisprudence on “control”	14
(2) The Applicant did not request municipal records	15
(3) The RCMP’s own ATIA #1 admission contradicts its Privacy Act position	15
D. The RCMP’s Refusal to Search Constitutes a Reviewable Error	15
E. The Tripartite Contradiction Reinforces the Finding of a Breach	16
REASONS FOR ORDER — PART IV	16

Segment 2 — Duty to Assist & Duty to Make Reasonable Efforts	16
840 Duty to Assist Under the ATIA and Privacy Act.....	17
B. The RCMP’s Contradictory Positions Demonstrate a Breach of the Duty to Assist	17
C. The RCMP’s “Unable to Locate” Notice Is a Breach of the Duty to Assist.....	18
D. The RCMP’s “Retrieval Stage” Admission Confirms a Breach of the Duty to Assist	18
E. The Duty to Assist Requires Technological Competence	19
F. The General Principle of the Federal Courts Rules and the Extraordinary Importance of the Issues.....	19
PART IV — ANALYSIS, Segment 3 (Commissioner’s s. 8(2)(m) Failure) → AFTER that section → a new dedicated subsection:	Error! Bookmark not defined.
“G. Abuse of Process, Inconsistent Positions, and the Binding Nature of Formal Admissions”	Error! Bookmark not defined.
PART IV — ANALYSIS	Error! Bookmark not defined.
Segment 3 (continued).....	Error! Bookmark not defined.
G. Abuse of Process, Inconsistent Positions, and the Binding Nature of Formal Admissions	20
H. Abuse of Process: The RCMP’s Irreconcilable Positions Cannot Stand	21
I. Abuse of Process Applies Even Without a Notice of Appearance.....	21
J. The RCMP Cannot Now Take Any Contrary Position	22
K. Conclusion on Abuse of Process and Admissions	22
REASONS FOR ORDER — PART IV	23
Segment 4 — Rule 318 Breach & Mandamus Test.....	23
A. The Mandatory Nature of Rule 318.....	23
B. Silence Is Not a Lawful Response Under Rule 318.....	23
C. Rule 318 Applies Regardless of Whether the Respondents Filed a Notice of Appearance	24
D. The RCMP’s Written Admissions Confirm the Breach	24
E. The Legal Test for Mandamus	25
F. Application of the Mandamus Test	25
(1) Public legal duty to act	25
(2) Duty owed to the Applicant	25
(3) Clear right to performance.....	25
(4) No adequate alternative remedy	25
(5) Prior demand	26
(6) Refusal	26
G. Mandamus Must Issue.....	26
H. The Court’s Supervisory Jurisdiction Requires Intervention	26
I. Mandamus Must Be Coupled With a Strict Timeline.....	26
J. Conclusion on Rule 318 and Mandamus.....	27
REASONS FOR ORDER — PART IV	27
Segment 5 — Prohibition & Preservation of Metadata (Spoliation Risk)	27

841	A. The Legal Framework for Prohibition	27
	B. The RCMP's Conduct Creates a Real and Substantial Risk of Spoliation	27
	C. The RCMP's Jurisdiction Over the Metadata Is Established	28
	D. The Legal Test for Prohibition Is Satisfied	29
	(1) The RCMP has acted without jurisdiction	29
	(2) The RCMP is about to act in excess of jurisdiction	29
	(3) The risk of irreparable harm is established	29
	(4) No adequate alternative remedy exists	29
	(5) The Court's supervisory jurisdiction is engaged	29
	E. The RCMP's Conduct Demonstrates a Need for Prohibition	29
	F. Prohibition Must Issue to Prevent Spoliation	30
	G. The Court Must Remain Seized to Ensure Compliance	31
	H. Conclusion on Prohibition	31
	PART IV — ANALYSIS	31
	Segment 6 (Expanded) — Declaratory Relief, Elevated Costs, and Final Disposition	31
	B. The RCMP's Conduct Warrants Elevated, Full Indemnity Costs	31
	1. The Legal Standard for Elevated Costs	31
	2. The RCMP's Conduct Meets the Elevated Costs Threshold	32
	Vector 1 — Systemic Bad Faith	32
	Vector 2 — Total Statutory Delinquency	32
	Vector 3 — Compounding ATIA Breaches and a Coordinated Institutional Obstruction	33
	3. The Applicant's Work Was Necessary, Proportionate, and Caused Solely by the RCMP's Conduct	34
	4. Tariff B Is Manifestly Inadequate	34
	5. Full Indemnity Costs Are Required to Uphold the Rule of Law	34
	6. Lump-Sum Award	35
	REASONS FOR ORDER — PART V	35
	V. CONCLUSION	35
	APPENDIX A — ORDER	37
	ORDER	37
	A. DECLARATIONS	37
	B. MANDAMUS	38
	C. PROHIBITION & PRESERVATION OF EVIDENCE	38
	D. COSTS	38
	E. COURT REMAINS SEIZED	38

I. INTRODUCTION

[1] This judicial review concerns a series of profound statutory, procedural, and institutional failures by the Royal Canadian Mounted Police (“RCMP”) in its capacity as a federal institution under the *Privacy Act*, RSC 1985, c P-21, and the *Access to Information Act*, RSC 1985, c A-1 (“ATIA”), and as a “tribunal” within the meaning of Rule 2 of the *Federal Courts Rules* and s. 2(1) of the *Federal Courts Act*.

[2] The Applicant seeks declaratory relief, prerogative remedies in the nature of mandamus and prohibition, and solicitor-client costs. He also seeks enforcement of his Rule 317 Request and compliance with Rule 318, which requires a tribunal to transmit the Certified Tribunal Record (“CTR”) within 20 days of service.

[3] The Respondents were duly served with the Notice of Application and the Rule 317 Request on May 19, 2026. They did not file a Notice of Appearance within the 10-day period mandated by Rule 305. They filed no affidavits, no submissions, and no objections under Rule 318(2). They have therefore elected not to participate in this proceeding.

[4] The absence of a Notice of Appearance does not deprive the Court of jurisdiction to adjudicate the matter. It does, however, mean that the Respondents are not entitled to notice of further steps and that the evidentiary record consists exclusively of the Applicant’s materials.

[5] The issues raised are of broader systemic importance. They concern the integrity of federal access-to-information regimes, the mandatory nature of statutory search obligations, the personal duty of the head of an institution under s. 8(2)(m) of the *Privacy Act*, and the consequences of a tribunal’s failure to comply with Rule 318.

[6] The record also reveals a troubling pattern of contradictory institutional positions taken by the RCMP across three parallel access requests — one under the *Privacy Act* and two under the ATIA — which cannot logically or legally coexist. These contradictions bear directly on the statutory duties at issue and the appropriateness of the extraordinary relief sought.

II. PROCEDURAL HISTORY

A. Service of the Notice of Application and Rule 317 Request

[7] The Applicant served the Notice of Application (Form 301) and the Rule 317 Request on May 19, 2026. The Respondents were required to file a Notice of Appearance within 10 days under Rule 305(1). They did not do so.

[8] Under Rule 305(2), a respondent who fails to file a Notice of Appearance is not entitled to notice of any further step in the proceeding. The Applicant was therefore entitled to proceed ex parte.

B. Failure to Transmit the Certified Tribunal Record

[9] The Rule 317 Request triggered the mandatory obligation under Rule 318(1) to transmit the CTR within 20 days. The deadline expired on June 10, 2026.

[10] The RCMP did not transmit the CTR. It did not file a written objection under Rule 318(2). It did not communicate with the Court or the Applicant. The failure is absolute.

C. Motion in Writing (NOM #1)

843

[11] On June 10, 2026, the Applicant filed a Notice of Motion seeking an order compelling compliance with Rule 318. The Motion Record was filed on June 11, 2026. The Respondents did not oppose the motion.

[12] The motion proceeded in writing on June 17, 2026. No Respondent filed any materials.

D. Requisition for Hearing (Form 314)

[13] The Applicant filed a Requisition for Hearing on June 12, 2026, and again on June 19, 2026, after making minor amendments to ensure strict compliance with Rule 314.

[14] The Registry initially declined to accept the requisition, citing the general flowchart for judicial review applications. The Applicant responded, correctly noting that:

- the Respondents' failure to file a Notice of Appearance extinguished their procedural rights;
- the time for filing a respondent's record never arose;
- Rule 314(1) therefore required the requisition to be filed within 10 days after the expiration of the time for the respondent's record — which, in a default scenario, is immediate.

[15] The Applicant's position is consistent with the text and structure of the Rules.

E. Supplemental Application Record (June 22, 2026)

[16] On June 22, 2026, the Applicant filed a Supplemental Application Record containing:

- fresh evidence of contradictory RCMP ATIP positions;
- the June 16, 2026 "retrieval stage" admission;
- the June 18, 2026 "unable to locate" notice;
- the Applicant's Research Dossier analyzing the tripartite contradiction;
- additional correspondence with the Registry.

[17] These materials are admissible and relevant to the issues before the Court.

II. FACTUAL BACKGROUND

A. The Privacy Act Request (March 11, 2026)

[18] On March 11, 2026, the Applicant submitted a highly particularized request under the *Privacy Act* seeking access to his personal information contained within the Canadian Police Information Centre ("CPIC") architecture, including:

- foundational metadata (ORI codes, terminal IDs, system identifiers);
- raw CPIC Offline Historical Database entries;
- ADD/MODIFY/CLEAR/CANCEL command logs;
- hexadecimal dumps;
- amended or purged data;
- cryptographic audit trails; and

- operator-level logs.

844

[19] These categories correspond to the Personal Information Bank RCMP PPU 005 and are central to the Applicant's allegations that the "False Information Package" underlying his October 2, 2024 arrest was digitally manipulated using GrapeCity.Documents for PDF v.6.0.2.0.

[20] On April 27, 2026, the RCMP issued a three-page response that:

- did **not** search the Offline Historical Database;
- did **not** search PPU 005;
- did **not** search for amended or purged data;
- did **not** search for hexadecimal dumps;
- did **not** search for audit trails;
- did **not** search for operator logs;
- did **not** search for foundational metadata.

[21] Instead, the RCMP executed a **live CPIC query** ("Q PERS+" and "Q CNI") on April 14, 2026 — a method that, by design, cannot retrieve historical, purged, or amended records. The RCMP then asserted that the Privacy Act "does not authorize the RCMP to search files belonging to other police forces."

[22] This position is inconsistent with:

- the statutory definition of "personal information";
- the jurisprudence on "control" (Canada Post, Hale, MO-4542);
- the RCMP's role as custodian of CPIC;
- the architecture of PPU 005;
- the Applicant's explicit request for federal-level metadata.

[23] The Privacy Act response therefore constitutes a **refusal to search**, not a search that yielded no results.

B. ATIA Request #1 (April 14, 2026)

[24] On April 14, 2026, the Applicant submitted a request under the ATIA seeking:

- Investigative Data Bank audit trails;
- raw hexadecimal mainframe dumps;
- terminal metadata (ORI, MAC, IP logs);
- inter-agency communications;
- GrapeCity PDF vector anomaly logs;
- Offline Historical Database search results;
- CPIC governance manuals.

[25] These are the **same categories of records** the RCMP refused to search under the Privacy Act.

[26] On June 16, 2026, RCMP ATIP Team Leader **Tina Beaudoin** emailed the Applicant stating:

"Kindly note that no extensions were taken on your file... the file remains in the retrieval stage."

[27] This admission is legally and factually significant:

- It confirms the RCMP **can** search the Offline Historical Database.
- It confirms the RCMP **is** searching the Offline Historical Database.
- It contradicts the RCMP's Privacy Act position that such records are "unsearchable."
- It confirms the existence of the very records the RCMP refused to search for.
- It confirms the RCMP did not take a valid extension under s. 9 of the ATIA.
- It confirms the file entered a **deemed refusal** on May 14, 2026.

[28] The "retrieval stage" admission is a **binding institutional concession** that the RCMP possesses the technological capacity, jurisdictional authority, and systemic access to the records sought.

C. ATIA Request #2 (May 7, 2026)

[29] On May 7, 2026, the Applicant submitted a second ATIA request seeking:

- procurement records;
- licensing agreements;
- NTOP onboarding logs;
- Azure cloud integration logs;
- security matrices;
- lifecycle tickets

for **GrapeCity.Documents for PDF v.6.0.2.0**, the SDK whose metadata appears in the "False Information Package."

[30] On June 18, 2026, RCMP Director **Curtis Mathews** issued a notice stating:

"The RCMP is unable to locate records."

[31] This notice is defective under s. 10(1)(a) of the ATIA, which requires the institution to state:

"that the record does not exist."

[32] The phrase "unable to locate" is not a statutory ground. It is an admission of a **failed search**, not a declaration of non-existence.

[33] The defective notice triggers an **automatic deemed refusal** under s. 10(3).

[34] The notice is also contradicted by:

- the forensic metadata showing GrapeCity v.6.0.2.0 was used to generate the "False Information Package";
- the DOC-6507 vector collapse anomaly;
- the presence of GrapeCity XMP toolkits in the PDF;
- the RCMP's own "retrieval stage" admission for ATIA #1.

[35] It is not credible that a federal institution with a multi-billion-dollar budget cannot locate **any** procurement or licensing records for enterprise-level software actively used in its document-generation pipeline.

D. The False Information Package

[36] The Applicant's arrest on October 2, 2024 was executed pursuant to a "False Information Package" that:

- contains only 5 pages instead of the mandatory 6;
- omits the statutory attestation page (Page 4);
- omits the sentencing/disposition page (Page 5);
- contains no judicial signature;
- contains no digital signature;
- contains no wet signature;
- contains no valid JP authorization;
- contains inconsistent footers;
- contains metadata proving it was generated using GrapeCity.Documents for PDF v.6.0.2.0.

[37] The missing attestation page renders the Information a **nullity ab initio** under ss. 504–508 of the *Criminal Code*.

[38] The GrapeCity metadata — including the DOC-6507 vector collapse anomaly — demonstrates that the document was generated **outside** the secure ICON/FRANK judicial systems.

[39] This explains why the Applicant sought hexadecimal dumps and audit trails: only raw mainframe data can reveal the true provenance of the document.

E. The Tripartite Contradiction

[40] The Applicant’s Research Dossier identifies a **three-way institutional contradiction**:

(1) Privacy Act Request

RCMP and Respondent Mr. Ball’s position:

“We cannot search these records.”

(2) ATIA Request #1

RCMP and Ms. Beaudoin’s position:

“We are actively retrieving these records.”

(3) ATIA Request #2

RCMP and Mr. Mathew’s position:

“We are unable to locate records.”

[41] These positions cannot simultaneously be true.

[42] The contradictions demonstrate:

- inconsistent statutory interpretations;
- inconsistent technological claims;
- inconsistent representations of control;
- inconsistent representations of searchability;
- inconsistent representations of record existence;
- inconsistent representations of institutional capacity.

[43] The contradictions also demonstrate:

847

- a refusal to search under the Privacy Act;
- a defective statutory notice under the ATIA;
- a crystallized deemed refusal under both statutes;
- a breach of the duty to assist;
- a breach of the duty to search;
- a breach of the duty to exercise statutory discretion;
- a breach of Rule 318.

[44] The contradictions are central to the Court’s analysis and the appropriateness of the extraordinary relief sought.

REASONS FOR ORDER — PART III

III. ISSUES

[45] The Applicant raises a series of interrelated statutory, procedural, and institutional failures. The evidentiary record — which is entirely uncontested due to the Respondents’ failure to appear — gives rise to the following determinative issues:

Issue 1 — Whether the RCMP breached its statutory duty to conduct a reasonable search under the Privacy Act

[46] The first issue is whether the RCMP’s refusal to search the Offline Historical Database, foundational metadata repositories, amended/purged data, and hexadecimal logs constitutes a breach of its mandatory duty under ss. 12 and 14 of the *Privacy Act*.

[47] This includes consideration of:

- the RCMP’s reliance on a “live query” incapable of retrieving historical or purged data;
- the RCMP’s assertion that it cannot search “files belonging to other police forces”;
- the jurisprudence on “control” (Canada Post, Hale, MO-4542);
- the Applicant’s explicit request for federal-level metadata;
- the RCMP’s contradictory admission under ATIA #1 that the same records are in the “retrieval stage.”

Issue 2 — Whether the RCMP breached its duty to assist and duty to make every reasonable effort to locate records

[48] The second issue is whether the RCMP’s conduct — including its refusal to search, its reliance on an inadequate search method, and its contradictory positions across three access requests — constitutes a breach of the duty to assist under s. 4(2.1) of the ATIA and the equivalent principles under the *Privacy Act*.

Issue 3 — Whether the RCMP Commissioner failed to exercise his mandatory statutory discretion under s. 8(2)(m) of the Privacy Act

[49] The third issue is whether the Commissioner’s failure to respond to, acknowledge, or consider the Applicant’s April 7, 2026 request under s. 8(2)(m) constitutes a jurisdictional error.

[50] This includes whether:

- the duty under s. 8(2)(m) is personal and non-delegable;
- the Commissioner’s “away on duty” autoreply affects the statutory obligation;
- the failure to consider the request warrants mandamus.

Issue 4 — Whether the RCMP’s failure to comply with Rule 318 constitutes a breach of procedural duty warranting judicial intervention

[51] The fourth issue is whether the RCMP’s failure to transmit the Certified Tribunal Record within 20 days — and its failure to file a written objection — constitutes a breach of Rule 318 requiring the Court to compel production.

[52] This includes whether:

- Rule 318 is mandatory;
- silence is a lawful response;
- the RCMP’s default impedes the Court’s superintending jurisdiction;
- mandamus is appropriate to enforce Rule 318.

Issue 5 — Whether the RCMP’s contradictory positions across the Privacy Act Request, ATIA #1, and ATIA #2 constitute evidence of bad faith, procedural unfairness, or jurisdictional error

[53] The fifth issue concerns the Applicant’s Research Dossier and the “tripartite contradiction”:

1. Privacy Act: “We cannot search these records.”
2. ATIA #1: “We are retrieving these records.”
3. ATIA #2: “We are unable to locate records.”

[54] The Court must determine whether these contradictions:

- undermine the credibility of the RCMP’s representations;
- demonstrate a refusal to search;
- demonstrate a defective statutory notice;
- crystallize deemed refusals under both statutes;

Issue 6 — Whether the Applicant is entitled to prerogative relief in the nature of mandamus

[55] The sixth issue is whether the legal test for mandamus is satisfied, including:

- the existence of a public legal duty;
 - the Applicant’s clear right to performance;
 - the absence of an adequate alternative remedy;
 - a prior demand;
 - a refusal;
 - the absence of equitable bars.
-

Issue 7 — Whether the Applicant is entitled to prerogative relief in the nature of prohibition

[56] The seventh issue is whether the RCMP’s conduct — including its refusal to search, its contradictory positions, and the risk of spoliation — warrants an order prohibiting the deletion, alteration, or archiving of relevant metadata, logs, and audit trails.

Issue 8 — Whether the Applicant is entitled to declaratory relief

[57] The eighth issue is whether the Applicant is entitled to declarations concerning:

- the RCMP’s loss of jurisdiction;
 - the defective statutory notice under s. 10(1)(a) of the ATIA;
 - the deemed refusals under s. 10(3);
 - the RCMP’s contradictory positions;
 - the existence and searchability of the requested records;
 - the structural defects in the “False Information Package.”
-

Issue 9 — Whether the Court should remain seized to supervise compliance

[58] The ninth issue is whether, given the Respondents’ procedural default and the nature of the relief ordered, the Court should remain seized to supervise compliance with its orders.

Issue 10 — Whether solicitor-client costs are warranted

850

[59] The final issue is whether the Respondents' conduct — including:

- failure to appear;
- failure to comply with Rule 318;
- failure to discharge statutory duties;
- contradictory institutional positions;
- defective statutory notices;
- crystallized deemed refusals —

warrants an award of solicitor-client costs.

Understood — here is **PART IV — ANALYSIS (Segment 1)**, drafted in the strong, authoritative judicial tone you selected (Option 3).

This segment addresses **Issue 1: The Duty to Search under the Privacy Act**, integrating your Research Dossier and the tripartite contradiction as part of the legal reasoning.

I will send **Segment 2** immediately after you confirm receipt.

REASONS FOR ORDER — PART IV

IV. ANALYSIS

Segment 1 — The Duty to Search Under the Privacy Act

A. The Statutory Framework

[60] The *Privacy Act* imposes a mandatory duty on federal institutions to conduct a reasonable search for personal information responsive to a request. Section 12(1) grants individuals the right to access their personal information, and s. 14 requires the head of the institution to respond within 30 days unless a valid extension is taken.

[61] The jurisprudence is unequivocal: a federal institution must make **every reasonable effort** to identify and locate responsive records. A refusal to search is a reviewable error. A search that is superficial, incomplete, or technologically inadequate is also a reviewable error.

[62] The duty to search is not satisfied by a cursory or methodologically defective inquiry. It requires a search that is:

- **thorough;**
- **technically competent;**
- **directed to the repositories where responsive records are likely to be found;**
- **conducted by personnel with the requisite access and expertise; and**
- **responsive to the specific parameters articulated by the requester.**

851
[63] The Applicant’s request was not vague. It was not broad. It was not ambiguous. It was surgical, precise, and technically specific. It identified:

- the exact Personal Information Bank (PPU 005);
- the exact repositories (Offline Historical Database);
- the exact metadata fields (ORI, terminal ID, system ID);
- the exact transaction types (ADD/MODIFY/CLEAR/CANCEL);
- the exact forensic artifacts (hexadecimal dumps);
- the exact temporal window (Sept. 15–Dec. 31, 2024).

[64] The RCMP was therefore required to search these repositories. It did not.

B. The RCMP’s “Live Query” Was Not a Search

[65] The RCMP’s April 27, 2026 response relied exclusively on a **live CPIC query** (“Q PERS+” and “Q CN1”) executed on April 14, 2026.

[66] A live query searches only the **active, front-facing GUI** of CPIC. It does not — and cannot — retrieve:

- historical records;
- purged records;
- amended records;
- cancelled warrants;
- audit trails;
- hexadecimal logs;
- Offline Historical Database entries;
- PPU 005 metadata.

[67] The RCMP’s reliance on a live query is therefore **not a search** within the meaning of the *Privacy Act*. It is the functional equivalent of searching the surface of a database while refusing to interrogate the underlying mainframe.

[68] The Applicant expressly requested the **offline** repositories. The RCMP refused to search them.

C. The RCMP’s Assertion That It “Cannot Search Files Belonging to Other Police Forces” Is Incorrect in Law

[69] The RCMP asserted that the Privacy Act “does not authorize the RCMP to search files belonging to other police forces.”

[70] This position is legally incorrect.

(1) The jurisprudence on “control”

[71] The Federal Court of Appeal in *Canada Post Corp. v. Canada (Minister of Public Works)* held that “control” is broad, liberal, and purposive. It includes:

- 852
- de facto control;
 - de jure control;
 - constructive control;
 - the ability to demand records;
 - the ability to retrieve records;
 - the ability to access records stored in a shared or federated system.

[72] The Ontario Court of Appeal in *Hale* applied this principle to tribunal records.

[73] The Information and Privacy Commissioner of Ontario in Order MO-4542 applied this principle **directly to CPIC**, holding that:

Municipal police services do not control CPIC audit trails, routing logs, or offline metadata.

Control rests exclusively with the RCMP as the federal host.

[74] The RCMP therefore **cannot** disclaim control over CPIC metadata by invoking “originator control.”

(2) The Applicant did not request municipal records

[75] The Applicant did not request:

- Toronto Police Service files;
- municipal investigative files;
- provincial court files.

[76] He requested **federal-level metadata** stored in **federal repositories** controlled by the RCMP.

(3) The RCMP’s own ATIA #1 admission contradicts its Privacy Act position

[77] On June 16, 2026, the RCMP admitted that the same records were in the “**retrieval stage**” under ATIA #1.

[78] This admission is incompatible with the RCMP’s Privacy Act position that the records are “unsearchable.”

D. The RCMP’s Refusal to Search Constitutes a Reviewable Error

[79] The RCMP did not search:

- the Offline Historical Database;
- PPU 005;
- amended/purged data;
- hexadecimal logs;
- audit trails;
- operator logs;
- foundational metadata.

[80] It relied on a methodologically defective “live query.”

[81] It asserted a legally incorrect jurisdictional limitation.

853
[82] It ignored the Applicant's explicit parameters.

[83] It contradicted its own ATIA #1 admission.

[84] It failed to discharge its statutory duty.

[85] The refusal to search is therefore:

- **incorrect;**
- **unreasonable;**
- **procedurally unfair;**
- **contrary to the purpose of the Privacy Act;**
- **a breach of the duty to assist;**
- **a jurisdictional error.**

E. The Tripartite Contradiction Reinforces the Finding of a Breach

[86] The RCMP's three contradictory positions — refusal to search (Privacy Act), retrieval stage (ATIA #1), and unable to locate (ATIA #2) — reinforce the conclusion that the Privacy Act search was not conducted.

[87] These contradictions demonstrate:

- inconsistent statutory interpretations;
- inconsistent technological claims;
- inconsistent representations of control;
- inconsistent representations of searchability;
- inconsistent representations of record existence.

[88] The contradictions also demonstrate:

- a refusal to search;
- a defective statutory notice;
- crystallized deemed refusals;
- a breach of the duty to assist;
- a breach of the duty to search.

[89] The Privacy Act search was not merely inadequate — it was **never conducted**.

REASONS FOR ORDER — PART IV

Segment 2 — Duty to Assist & Duty to Make Reasonable Efforts

A. The Duty to Assist Under the ATIA and Privacy Act

854

[90] Section 4(2.1) of the *Access to Information Act* imposes a mandatory “duty to assist” on federal institutions. This duty requires institutions to make **every reasonable effort** to:

- assist the requester,
- respond accurately and completely, and
- conduct a search that is adequate, good-faith, and technologically competent.

[91] Although the *Privacy Act* does not contain an identically worded provision, the Federal Court has repeatedly held that the same principles apply. The duty to assist is inherent in the statutory right of access and the right of correction under s. 12(2). A refusal to search, or a search that is methodologically defective, constitutes a breach of this duty.

[92] The RCMP’s conduct in this case falls far short of the statutory standard. The Applicant provided:

- precise repositories (PPU 005, Offline Historical Database),
- precise metadata fields (ORI, terminal ID, system ID),
- precise forensic artifacts (hexadecimal dumps),
- precise transaction types (ADD/MODIFY/CLEAR/CANCEL), and
- a precise temporal window.

[93] The RCMP ignored these parameters entirely. It did not attempt to search the repositories identified. It did not consult technical personnel capable of extracting hexadecimal logs. It did not interrogate the mainframe. It did not retrieve audit trails. It did not search amended or purged data. It did not search the Offline Historical Database.

[94] Instead, it executed a **live query** — a method incapable of retrieving the very categories of records requested — and then asserted that the Privacy Act “does not authorize” the RCMP to search files belonging to other police forces.

[95] This is not a reasonable effort. It is not an effort at all. It is a refusal to assist.

B. The RCMP’s Contradictory Positions Demonstrate a Breach of the Duty to Assist

[96] The RCMP’s contradictory positions across the three access requests — refusal to search (Privacy Act), retrieval stage (ATIA #1), and unable to locate (ATIA #2) — demonstrate a systemic failure to assist.

[97] These contradictions reveal:

- inconsistent interpretations of statutory obligations;
- inconsistent representations of technological capacity;
- inconsistent representations of record existence;
- inconsistent representations of control;
- inconsistent representations of searchability.

[98] The contradictions also reveal that the RCMP:

- did not conduct a reasonable search;

- did not make every reasonable effort;
- did not assist the Applicant;
- did not provide accurate or complete responses;
- did not comply with the statutory timelines;
- did not issue valid statutory notices.

[99] The duty to assist requires candour, diligence, and good faith. The RCMP's conduct demonstrates none of these qualities.

C. The RCMP's "Unable to Locate" Notice Is a Breach of the Duty to Assist

[100] The June 18, 2026 notice issued by Director Mathews stated that the RCMP was "unable to locate records" relating to the procurement and licensing of GrapeCity.Documents for PDF v.6.0.2.0.

[101] This notice is defective under s. 10(1)(a) of the ATIA, which requires the institution to state:

"that the record does not exist."

[102] The phrase "unable to locate" is not a statutory ground. It is an admission of a **failed search**, not a declaration of non-existence.

[103] A failed search is, by definition, a breach of the duty to assist. It indicates that the institution did not:

- search the correct repositories;
- consult the correct personnel;
- deploy the correct tools;
- interpret the request correctly;
- make every reasonable effort.

[104] The forensic metadata embedded in the "False Information Package" — including the DOC-6507 vector collapse anomaly and the GrapeCity XMP toolkits — proves that the software was used. The RCMP's inability to locate procurement records for software that leaves an indelible cryptographic footprint is not credible.

[105] The only reasonable inference is that the RCMP did not conduct a reasonable search.

D. The RCMP's "Retrieval Stage" Admission Confirms a Breach of the Duty to Assist

[106] On June 16, 2026, RCMP ATIP Team Leader Tina Beaudoin confirmed that ATIA Request #1 was in the "retrieval stage" and that **no extensions were taken**.

[107] This admission is fatal to the RCMP's Privacy Act position. It confirms that:

- the RCMP **can** search the Offline Historical Database;
- the RCMP **is** searching the Offline Historical Database;

- the RCMP's Privacy Act refusal to search was incorrect;
- the RCMP's Privacy Act refusal to search was unreasonable;
- the RCMP's Privacy Act refusal to search was a breach of the duty to assist.

[108] The RCMP cannot simultaneously claim that records are “unsearchable” under the Privacy Act and “in retrieval” under the ATIA.

[109] The contradiction is evidence of a systemic failure to assist.

E. The Duty to Assist Requires Technological Competence

[110] The duty to assist requires institutions to deploy the tools, personnel, and technical expertise necessary to retrieve the records requested.

[111] When an applicant requests:

- hexadecimal dumps,
- audit trails,
- amended/purged data,
- Offline Historical Database entries,
- PPU 005 metadata,
- terminal logs,
- ORI codes,
- system identifiers,

the institution must assign personnel capable of retrieving these records.

[112] The RCMP did not do so. It relied on a GUI-level query incapable of retrieving the requested records. This is a breach of the duty to assist.

F. The General Principle of the Federal Courts Rules and the Extraordinary Importance of the Issues

[113] The Court is guided by the General Principle codified in Rule 3 of the *Federal Courts Rules*, which mandates that the Rules:

“shall be interpreted and applied so as to secure the just, most expeditious and least expensive outcome of every proceeding,”

and that proportionality must be assessed “having regard to the proceeding’s complexity, the importance of the issues involved and the amount in dispute.”

[114] The issues raised in this judicial review are not merely important — they are unprecedented. The evidentiary record discloses, for the first time in any reported Canadian decision, a wholesale manipulation of a Criminal Code Form 2 Information Package (CCO-2-000-1), including:

- the apparent alteration of judicial signatures;
- the omission of mandatory statutory pages;
- the embedding of commercial PDF-generation metadata foreign to the secure ICON/FRANK judicial systems.

[115] These allegations, supported by uncontroverted forensic evidence, strike at the heart of the administration of justice in Ontario and raise systemic questions extending far beyond the Applicant’s individual circumstances.

[116] The Court cannot ignore the broader context. Recent public reporting concerning “Project South” and other investigations into document integrity within Ontario’s justice system underscores the possibility that the issues raised here may not be isolated. The Applicant’s experience — involving a falsified Information Package, contradictory federal ATIP responses, and the RCMP’s refusal to search the very repositories that would confirm or refute the authenticity of the underlying judicial instruments — raises the troubling question of whether other individuals may be similarly affected, including persons currently detained pre-trial or serving custodial sentences.

[117] The RCMP’s conduct in this proceeding, including its internally inconsistent factual assertions, contradictory statutory positions, and refusal to comply with mandatory procedural obligations under Rule 318, further amplifies the systemic significance of the matter. The RCMP bears the title “Royal,” a designation that carries with it a heightened expectation of institutional integrity, transparency, and fidelity to the rule of law. When a federal law-enforcement institution adopts mutually incompatible positions across three statutory regimes — asserting that records are “unsearchable” under the *Privacy Act*, “in retrieval” under ATIA #1, and “unable to be located” under ATIA #2 — the Court is entitled to scrutinize whether these inconsistencies reflect mere administrative error or a deeper structural problem.

[118] In these circumstances, proportionality under Rule 3 weighs heavily in favour of decisive judicial intervention. The complexity of the issues, the unprecedented nature of the alleged document manipulation, the potential systemic implications for other affected individuals, and the Respondents’ complete procedural default all support the conclusion that the extraordinary remedies sought — including mandamus, prohibition, and declaratory relief — are not only appropriate but necessary to secure a just and expeditious outcome.

G. Abuse of Process, Inconsistent Positions, and the Binding Nature of Formal Admissions

[119] Even if the Respondents had filed a Notice of Appearance — which they did not — the RCMP’s own written statements, made by senior officials in three separate statutory regimes, would bind them in this proceeding. These statements were made:

- by Director **Jeffrey Ball** under the *Privacy Act* (PII Access Request, March 11, 2026);
- by Team Leader **Tina Beaudoin** under **ATIA Request #1** (June 16, 2026 “retrieval stage” admission);
- by Director **Curtis Mathews** under **ATIA Request #2** (June 18, 2026 “unable to locate” notice).

[120] These written representations — many of them made **after** the Form 301 Judicial Review Application was filed — constitute **formal admissions**. They cannot be withdrawn, contradicted, or re-characterized without leave of the Court, which has not been sought and would not be granted in the circumstances.

[121] The law of formal admissions is well-settled. A formal admission is:

“an express and intentional waiver... a powerful instrument of speedier justice... conclusive of the matter admitted.” — *Patterson v. Scherloski*; *McWilliams Canadian Criminal Evidence*; *Sopinka, Lederman & Bryant, The Law of Evidence in Canada*

[122] A formal admission:

858

is not evidence;

- is **stronger than evidence**;
- **dispenses with the need for proof**;
- **binds the party making it**;
- **cannot be contradicted by later evidence**;
- **cannot be withdrawn without leave** (and only on strict terms).

[123] The RCMP's written statements therefore conclusively establish:

- that the Privacy Act search was not conducted;
- that the Offline Historical Database is searchable;
- that the records exist and are in "retrieval";
- that the ATIA #2 notice was defective;
- that the RCMP's positions are mutually irreconcilable.

H. Abuse of Process: The RCMP's Irreconcilable Positions Cannot Stand

[124] The doctrine of abuse of process prevents a party from advancing **diametrically inconsistent factual positions** in related proceedings. The jurisprudence is clear:

- *Toronto (City) v. CUPE, Local 79*, 2003 SCC 63 — courts have inherent power to prevent misuse of their process.
- *First Majestic Silver Corp. v. Davila Santos*, 2012 BCCA 5 — abuse of process includes inconsistent factual positions.
- *Glover v. Leakey*, 2024 BCSC — a party cannot assert contradictory facts in parallel proceedings.
- *Mystar Holdings Ltd. v. 247037 Alberta Ltd.*, 2009 ABQB 480 — irreconcilable factual positions are impermissible.
- *Pepper's Produce Ltd. v. Medallion Realty Ltd.*, 2012 BCCA 247 — inconsistent positions undermine the integrity of the court's process.
- *Halagan v. Reifel*, 1997 BCSC — "saying something to one judge and the opposite to another will not be countenanced."

[125] The RCMP's conduct falls squarely within this doctrine. It has taken **three mutually exclusive positions**:

1. **Privacy Act**: "We cannot search these records."
2. **ATIA #1**: "We are retrieving these records."
3. **ATIA #2**: "We are unable to locate records."

[126] These positions cannot coexist. They are not alternative pleadings. They are **irreconcilable factual assertions** made by the same institution concerning the same repositories, the same metadata, and the same subject matter.

[127] Under *Glover*, *Mystar*, *Pepper's Produce*, and *First Majestic*, this constitutes an abuse of process.

I. Abuse of Process Applies Even Without a Notice of Appearance

859 [128] The RCMP's failure to file a Notice of Appearance does not insulate it from the consequences of its own written admissions. Rule 305 removes the Respondents' entitlement to notice — it does not erase their prior statements.

[129] Rule 318 treats the RCMP as a **tribunal**, and the access requests under the *Privacy Act* and ATIA as **proceedings**. The RCMP's written responses in those proceedings are therefore **formal admissions** in this judicial review.

[130] The Court is entitled — indeed required — to rely on these admissions as dispositive of the issues to which they relate.

J. The RCMP Cannot Now Take Any Contrary Position

[131] The jurisprudence is unequivocal:

- A party **cannot approbate and reprobate** (*Halagan*).
- A party **cannot advance diametrically inconsistent facts** (*Mystar*).
- A party **cannot contradict its own admissions** (*Marchand; Azevedo*).
- A party **cannot withdraw an admission without leave** (*Patterson; Falco*).
- A party **cannot escape the consequences of its own statements by silence** (*Seal Tech; National Utility Service*).
- Even the Crown is bound by its admissions, **even if contradicted by evidence** (*R v Robertson*, 2021 SKCA 125).

[132] The RCMP has made:

- a formal admission that it refused to search;
- a formal admission that the records are in retrieval;
- a formal admission that it could not locate procurement records;
- a formal admission that no extensions were taken;
- a formal admission that the Privacy Act search was not conducted.

[133] These admissions are **binding**. They are **conclusive**. They are **dispositive**.

[134] The RCMP cannot now assert:

- that it conducted a reasonable search;
- that the records do not exist;
- that the repositories are unsearchable;
- that the ATIA notices were valid;
- that the Privacy Act response was lawful.

[135] To permit such a reversal would undermine the integrity of the Court's process and violate the principles articulated in *CUPE, Glover, Mystar, Pepper's Produce*, and *First Majestic*.

K. Conclusion on Abuse of Process and Admissions

[136] The RCMP's contradictory positions constitute:

- a breach of the duty to assist;
- a breach of the duty to search;
- a breach of procedural fairness;
- a breach of Rule 318;
- a crystallized deemed refusal under both statutes;
- a formal admission that the Privacy Act search was not conducted;
- an abuse of process under the jurisprudence.

[137] These findings independently justify:

- declaratory relief;
- mandamus;
- prohibition;
- solicitor-client costs;
- and the Court remaining seized with leave to the Applicant alone to tender, transmit and file further submissions arising out of the RCMP and various Respondents' delinquency.

REASONS FOR ORDER — PART IV

Segment 4 — Rule 318 Breach & Mandamus Test

A. The Mandatory Nature of Rule 318

[138] Rule 318(1) of the *Federal Courts Rules* imposes a **mandatory**, non-discretionary obligation on a tribunal to transmit the requested material within 20 days of receiving a Rule 317 request. The Rule provides:

“The tribunal **shall transmit** the material to the Registry within 20 days after being served with the request.”

[139] The use of the word “**shall**” is determinative. Under s. 11 of the *Interpretation Act*, “shall” is imperative. It removes discretion. It imposes a public legal duty.

[140] The RCMP, acting as a “tribunal” under Rule 2 and s. 2(1) of the *Federal Courts Act*, was therefore required to:

1. **transmit** the Certified Tribunal Record (CTR) within 20 days; or
2. **file a written objection** under Rule 318(2) within the same period.

[141] The RCMP did neither. It did not transmit the CTR. It did not file an objection. It did not seek an extension. It did not communicate with the Registry. It did not appear. It did not respond.

[142] The 20-day deadline expired on **June 10, 2026**. The RCMP has been in continuous breach since that date.

B. Silence Is Not a Lawful Response Under Rule 318

[143] The jurisprudence is unequivocal: a tribunal cannot ignore a Rule 317 request. Silence is not compliance. Silence is **not** an objection. Silence is not a lawful response.

861

[144] In *Rémillard v. Canada (National Revenue)*, 2020 FC 1061, the Court held that Rule 317/318 is not exploratory discovery — it is a **mandatory transmission mechanism** essential to the Court’s superintending jurisdiction.

[145] In *Lill v. Canada*, 2023 FC 1364, the Court held that where allegations of bias, procedural unfairness, or jurisdictional error are raised, the scope of the CTR expands, and the tribunal’s duty to transmit becomes even more critical.

[146] The RCMP’s refusal to transmit the CTR therefore:

- impedes the Court’s ability to conduct judicial review;
- obstructs the Applicant’s right to a fair process;
- undermines the open court principle;
- constitutes a breach of a public legal duty;
- constitutes a jurisdictional error.

C. Rule 318 Applies Regardless of Whether the Respondents Filed a Notice of Appearance

[147] Rule 305 governs the Respondents’ entitlement to notice. It does **not** govern their obligations under Rule 318.

[148] Even when a respondent is in default of appearance, Rule 318 continues to apply with full force. A tribunal cannot avoid its statutory duty by refusing to appear.

[149] The RCMP’s failure to file a Notice of Appearance therefore:

- removes their entitlement to notice;
- removes their entitlement to service;
- **does not** remove their obligation to transmit the CTR.

[150] The RCMP’s default under Rule 305 and its breach of Rule 318 are parallel, independent failures.

D. The RCMP’s Written Admissions Confirm the Breach

[151] The RCMP’s own written statements — including those of Director Ball, Team Leader Beaudoin, and Director Mathews — confirm that:

- the CTR was not transmitted;
- the CTR was not prepared;
- the CTR was not assembled;
- the CTR was not searched for;
- no objection was filed;
- no extension was sought.

[152] These statements constitute **formal admissions**, binding on the Respondents. They cannot now be contradicted.

862
[153] The breach of Rule 318 is therefore established on the record, by the Respondents' own hand.

E. The Legal Test for Mandamus

[154] The Supreme Court of Canada in *Apotex Inc. v. Canada (Attorney General)*, [1994] 1 F.C. 742 (C.A.), set out the six-part test for mandamus:

1. A public legal duty to act.
2. The duty is owed to the applicant.
3. A clear right to performance of that duty.
4. No adequate alternative remedy.
5. A prior demand for performance.
6. A refusal, express or implied.

[155] Each element is satisfied.

F. Application of the Mandamus Test

(1) Public legal duty to act

[156] Rule 318 imposes a mandatory duty. The RCMP, as a tribunal, is bound by it. This element is satisfied.

(2) Duty owed to the Applicant

[157] Rule 317/318 exists to ensure that applicants receive the material necessary to prosecute their judicial review. The duty is owed directly to the Applicant. This element is satisfied.

(3) Clear right to performance

[158] The Applicant:

- served the Rule 317 request;
- filed it with the Court;
- waited the 20-day period;
- received no objection;
- received no CTR.

[159] The right to performance is clear. This element is satisfied.

(4) No adequate alternative remedy

[160] There is no alternative remedy. Without the CTR, the judicial review cannot proceed. The Applicant cannot compel production through any other mechanism. This element is satisfied.

(5) Prior demand

863

[161] The Rule 317 request constitutes a formal demand. This element is satisfied.

(6) Refusal

[162] The RCMP's silence, failure to transmit, and failure to object constitute an implied refusal. This element is satisfied.

G. Mandamus Must Issue

[163] All six elements of the *Apotex* test are met. The RCMP is in ongoing breach of a mandatory statutory duty. The breach is confirmed by their own admissions. The Applicant has no alternative remedy. The judicial review cannot proceed without the CTR.

[164] Mandamus is therefore not merely appropriate — it is required.

H. The Court's Supervisory Jurisdiction Requires Intervention

[165] The Federal Court's superintending jurisdiction over federal tribunals is engaged. Rule 318 is the mechanism by which the Court ensures that tribunals do not insulate their decisions from review.

[166] Where a tribunal refuses to transmit the CTR, the Court must intervene to preserve:

- the rule of law;
- the integrity of the judicial review process;
- the open court principle;
- the Applicant's right to procedural fairness.

[167] The RCMP's refusal to transmit the CTR is therefore a breach that strikes at the heart of the Court's supervisory function.

I. Mandamus Must Be Coupled With a Strict Timeline

[168] Given:

- the RCMP's procedural default;
 - its contradictory statutory positions;
 - its refusal to comply with Rule 318;
 - its failure to appear;
 - its failure to object;
 - its failure to communicate;
 - its failure to search;
-

- its failure to assist;
- 864**
a strict timeline is necessary.

[169] The CTR must be transmitted **within 24 hours** of the Order, failing which the Applicant must be granted leave to bring a contempt motion.

J. Conclusion on Rule 318 and Mandamus

[170] The RCMP is in clear, ongoing breach of Rule 318. The breach is established by the record and by the RCMP's own admissions. The *Apotex* test is fully satisfied. Mandamus must issue.

[171] The Court will therefore order:

- the immediate transmission of the CTR;
- a 24-hour compliance deadline;
- leave to bring a contempt motion if the breach persists.

REASONS FOR ORDER — PART IV

Segment 5 — Prohibition & Preservation of Metadata (Spoliation Risk)

A. The Legal Framework for Prohibition

[172] A writ of prohibition is a prerogative remedy designed to restrain a tribunal, administrative body, or state actor from acting **without jurisdiction, in excess of jurisdiction, or in a manner that threatens the integrity of the judicial process**. It is preventative, not corrective. It operates to **freeze** unlawful conduct before it occurs.

[173] The Supreme Court of Canada has repeatedly affirmed that prohibition is appropriate where:

1. a tribunal has acted or is about to act without jurisdiction;
2. the conduct threatens the rule of law;
3. the conduct risks irreparable harm;
4. no adequate alternative remedy exists;
5. the Court's supervisory jurisdiction is engaged.

[174] Each of these elements is satisfied here.

B. The RCMP's Conduct Creates a Real and Substantial Risk of Spoliation

[175] The Applicant seeks preservation of:

865

- CPIC Offline Historical Database entries;
- PPU 005 metadata;
- ADD/MODIFY/CLEAR/CANCEL logs;
- hexadecimal dumps;
- operator logs;
- terminal identifiers;
- routing logs;
- audit trails;
- version histories;
- GrapeCity/MESCIUS PDF manipulation logs.

[176] These records are **volatile**. They are **machine-generated**, **time-sensitive**, and **susceptible to overwriting** by routine system processes. They are also susceptible to:

- deletion,
- sanitization,
- archiving beyond rapid retrieval,
- automated purging,
- metadata flattening,
- version collapse,
- and other forms of digital spoliation.

[177] The RCMP's contradictory conduct across three statutory regimes — refusal to search (Privacy Act), retrieval stage (ATIA #1), and unable to locate (ATIA #2) — creates a **real and substantial risk** that responsive records may be altered, overwritten, or destroyed.

[178] This risk is heightened by:

- the RCMP's refusal to transmit the CTR;
- its refusal to appear;
- its refusal to object;
- its refusal to comply with Rule 318;
- its refusal to search the repositories requested;
- its contradictory statements regarding searchability;
- its contradictory statements regarding record existence;
- its contradictory statements regarding technological capacity.

[179] The Court cannot assume that volatile digital evidence will be preserved absent a clear, binding, and enforceable order.

C. The RCMP's Jurisdiction Over the Metadata Is Established

[180] The RCMP has repeatedly attempted to disclaim jurisdiction over the metadata by asserting that the records "belong to other police forces."

[181] This position is legally incorrect. As established earlier:

- CPIC is a **federal system**;
- U 005 is a **federal Personal Information Bank**;
- the Offline Historical Database is **federally administered**;
- the RCMP is the **host, custodian, and controller** of the metadata;
- the RCMP has **de facto, de jure, and constructive** control.

[182] The RCMP therefore has the ability — and the obligation — to preserve the metadata.

D. The Legal Test for Prohibition Is Satisfied

(1) The RCMP has acted without jurisdiction

[183] The RCMP's refusal to search the repositories requested, its contradictory statutory positions, and its failure to comply with Rule 318 constitute jurisdictional errors.

(2) The RCMP is about to act in excess of jurisdiction

[184] If the metadata is altered, overwritten, or destroyed, the RCMP will have acted in excess of jurisdiction by:

- frustrating the judicial review;
- undermining the Court's supervisory role;
- destroying evidence relevant to the Applicant's rights;
- interfering with the administration of justice.

(3) The risk of irreparable harm is established

[185] Digital metadata is uniquely vulnerable. Once overwritten, it cannot be reconstructed. The loss would be permanent. The harm would be irreparable.

(4) No adequate alternative remedy exists

[186] There is no statutory mechanism to compel preservation absent a court order. The Applicant cannot rely on internal RCMP assurances, particularly given the contradictory positions already taken.

(5) The Court's supervisory jurisdiction is engaged

[187] The Federal Court has inherent and statutory jurisdiction to prevent spoliation, preserve evidence, and restrain unlawful conduct by federal tribunals.

E. The RCMP's Conduct Demonstrates a Need for Prohibition

[188] The RCMP's conduct in this proceeding — including its refusal to appear, refusal to comply with Rule 318, refusal to search, and contradictory statutory positions — demonstrates that voluntary preservation cannot be assumed.

[189] The Applicant has provided evidence of:

- a falsified Information Package;
- missing judicial signatures;
- missing mandatory pages;
- GrapeCity/MESCIUS metadata;
- DOC-6507 vector collapse anomalies;
- contradictory ATIP responses;
- defective statutory notices;
- crystallized deemed refusals.

[190] These anomalies raise profound concerns regarding:

- document integrity;
- metadata manipulation;
- unauthorized PDF generation;
- potential systemic issues;
- the possibility of similar cases affecting other individuals.

[191] In these circumstances, the Court must act to preserve the integrity of the evidence.

F. Prohibition Must Issue to Prevent Spoliation

[192] The Court will therefore issue a writ of prohibition restraining the RCMP, its officers, employees, contractors, agents, and automated systems from:

- deleting;
- altering;
- sanitizing;
- overwriting;
- archiving;
- compressing;
- flattening;
- or otherwise modifying

any metadata, logs, audit trails, or digital artifacts associated with Police Case ID 457197 (which was not present by the TPS 14th Division in the Form 10 Undertaking signed by Sergeant Sean Cassidy and the Applicant (nota bene: on the most concerning night in question where the Applicant was lured to the TPS 14th Division on account of him being able to pick up property that said division had “received”, but that which would be sent to the TPS Property Evidence Management Unit if he did not attend in seven days from October 2, 2024) or the Applicant’s identifiers. It is notable and in evidence that the Applicant contacted the OPP and it had no record of said “Police Case ID” and certainly it was not that of the TPS which left one police detachment and the Applicant has shown on a balance of probabilities that it was the RCMP and also demonstrated that it was more likely than not involving that of Regional COM Mr. Matt Peggs by his high level forensic analysis of how the likes of a PDF manipulation software in a product formerly known as Grape.City.Documents.For.PDF (which remained in the metadata with the OCJ 10 Armoury Street Courthouse which was by admission on its face not the Originating Courthouse).

[193] This prohibition will remain in effect:

- until the judicial review is finally adjudicated;
- until all appeals are exhausted;

- or until further order of the Court.

868

G. The Court Must Remain Seized to Ensure Compliance

[194] Given the RCMP's procedural default, contradictory conduct, and refusal to comply with Rule 318, the Court will remain seized of this matter to supervise compliance with:

- the mandamus order;
- the prohibition order;
- the preservation obligations;
- and any further directions required.

[195] This supervisory jurisdiction is necessary to prevent further spoliation, ensure the integrity of the record, and uphold the rule of law.

H. Conclusion on Prohibition

[196] The RCMP's conduct creates a real and substantial risk of spoliation. The legal test for prohibition is satisfied. The Court must intervene to preserve the integrity of the evidence and prevent further jurisdictional overreach.

[197] A writ of prohibition will therefore issue.

PART IV — ANALYSIS

Segment 6 — Declaratory Relief, Elevated Costs, and Final Disposition

B. The RCMP's Conduct Warrants Elevated, Full Indemnity Costs

1. The Legal Standard for Elevated Costs

[201] The Federal Court has consistently held that **solicitor-client costs** (full indemnity) are appropriate where the Crown's conduct is:

- **reprehensible,**
- **scandalous, or**
- **outrageous.**

This standard was reaffirmed in *Whalen v. Canada (Attorney General)*, 2015 FC 1322, where the Court held that even a **self-represented litigant with legal training** may be entitled to elevated costs where the Crown's conduct meets this threshold.

[202] The rationale is twofold:

869

1. **Deterrence** — to prevent federal institutions from abusing their statutory powers or obstructing judicial review.
2. **Compensation** — to ensure that an applicant forced to litigate against institutional misconduct is made whole.

[203] The Applicant, although self-represented, is legally trained. Under *Whalen*, this does not bar elevated costs. To the contrary, where a self-represented litigant demonstrates:

- legal sophistication,
- procedural compliance,
- and substantial, necessary work,

the Court may award a **lump-sum indemnity** reflecting the true value of the work performed.

2. The RCMP's Conduct Meets the Elevated Costs Threshold

The RCMP's conduct satisfies the *Whalen* standard on **three independent vectors**, each of which would justify elevated costs on its own. Together, they form a textbook case for full indemnity.

Vector 1 — Systemic Bad Faith

[204] The evidentiary record demonstrates that the RCMP:

- deployed **synthetic, out-of-system document alterations**;
- used **GrapeCity.Documents for PDF v. 6.0.2.0**, a commercial SDK foreign to the secure ICON/FRANK judicial systems;
- generated a **False Information Package** containing missing pages, missing signatures, and DOC-6507 vector collapse anomalies;
- refused to search the very repositories (PPU 005, Offline Historical Database) that would reveal the provenance of these alterations.

[205] This conduct is not merely negligent. It is **systemic bad faith**. It reflects an institutional attempt to:

- obscure the mainframe ledger logs;
- avoid producing metadata that would confirm manipulation;
- frustrate the Applicant's statutory rights;
- and shield the institution from scrutiny.

[206] Such conduct is **reprehensible** within the meaning of *Whalen*.

Vector 2 — Total Statutory Delinquency

[207] The RCMP simultaneously breached:

- **Rule 305** — by failing to file a Notice of Appearance;
- **Rule 318(1)** — by failing to transmit the CTR within 20 days;

- **Rule 318(2)** — by failing to file a written objection;
- **Section 14 of the Privacy Act** — by failing to respond within 30 days;
- **Section 7 of the ATIA** — by failing to respond within 30 days;
- **Section 9 of the ATIA** — by failing to take valid extensions;
- **Section 10(1)(a) of the ATIA** — by issuing a defective “unable to locate” notice;
- **Section 10(3) of the ATIA** — by triggering crystallized deemed refusals.

[208] This was not inadvertence. It was a **deliberate institutional choice** to:

- remain silent,
- avoid participation,
- avoid scrutiny,
- and obstruct the judicial review.

[209] The Federal Court has repeatedly held that such conduct is **scandalous** and warrants elevated costs.

Vector 3 — Compounding ATIA Breaches and a Coordinated Institutional Obstruction

[210] The RCMP’s conduct under the ATIA demonstrates a **coordinated institutional campaign** to avoid producing the CTR and to prevent judicial oversight.

Specifically:

- ATIA #1 (due May 14, 2026) — no extension taken; file in “retrieval stage”; deemed refusal.
- ATIA #2 (due June 8, 2026) — defective “unable to locate” notice; deemed refusal.
- Privacy Act Request — refusal to search; reliance on a methodologically defective live query.

[211] These failures were not isolated. They were **synchronized**:

- both ATIA deadlines were missed;
- both ATIA files entered deemed refusal;
- the Privacy Act search was not conducted;
- the CTR was not transmitted;
- no objections were filed;
- no appearance was entered.

[212] This pattern demonstrates an **institutional strategy** to:

- avoid cross-examination,
- avoid producing the CTR,
- avoid judicial scrutiny,
- and avoid accountability.

[213] Such conduct is **outrageous** within the meaning of *Whalen*.

3. The Applicant's Work Was Necessary, Proportionate, and Caused Solely by the RCMP's Conduct

871

[214] The Applicant was forced to:

- prepare a 1,200-page Application Record;
- prepare a Rule 317 Request;
- prepare NOM #1;
- prepare supplemental written representations;
- prepare a Requisition for Hearing;
- prepare a Research Dossier;
- prepare a Draft Order;
- prepare a Draft Bill of Costs;
- respond to contradictory ATIP positions;
- respond to defective statutory notices;
- respond to the RCMP's refusal to appear;
- respond to the RCMP's refusal to comply with Rule 318.

[215] Every step was necessary. Every step was caused by the RCMP's misconduct.

4. Tariff B Is Manifestly Inadequate

[216] The Applicant's Draft Bill of Costs (Tab 25) claims:

- **\$14,240.00** in Tariff B fees;
- **\$3,972.00** in disbursements;
- **\$18,212.00** total (plus taxes).

[217] These amounts are reasonable. But Tariff B cannot compensate for:

- the complexity of the issues;
 - the unprecedented nature of the allegations;
 - the systemic importance of the matter;
 - the RCMP's procedural default;
 - the RCMP's contradictory positions;
 - the RCMP's abuse of process;
 - the Applicant's extensive legal work.
-

5. Full Indemnity Costs Are Required to Uphold the Rule of Law

[218] The Federal Court awards solicitor-client costs where necessary to:

- denounce institutional misconduct;
- deter future abuses;
- compensate the applicant;
- protect the integrity of the judicial process.

[219] This is such a case.

[220] The RCMP's conduct was:

872

- **reprehensible** (systemic bad faith),
- **scandalous** (total statutory delinquency),
- **outrageous** (coordinated obstruction).

[221] Full indemnity costs are therefore warranted.

6. Lump-Sum Award

[222] The Court will award:

- **full indemnity costs,**
 - **in a lump-sum amount,**
 - **based on the Applicant's Draft Bill of Costs,**
 - **with liberty to the Applicant to file a short written submission on quantum if required.**
-

REASONS FOR ORDER — PART V

V. CONCLUSION

[223] This judicial review reveals a pattern of statutory breaches, procedural defaults, contradictory institutional positions, and systemic failures by the Royal Canadian Mounted Police. The evidentiary record — uncontested due to the Respondents' failure to appear — establishes:

- a refusal to search under the *Privacy Act*;
- defective statutory notices under the ATIA;
- crystallized deemed refusals under both statutes;
- a failure to exercise mandatory discretion under s. 8(2)(m);
- a failure to comply with Rule 318;
- a failure to file a Notice of Appearance under Rule 305;
- a failure to transmit the Certified Tribunal Record;
- a failure to file a written objection;
- a failure to participate in the proceeding; and
- a failure to preserve the integrity of the judicial process.

[224] The RCMP's contradictory positions across three statutory regimes — refusal to search (Privacy Act), retrieval stage (ATIA #1), and unable to locate (ATIA #2) — constitute formal admissions, binding on the Respondents, and amount to an abuse of process under the jurisprudence.

[225] The Applicant has demonstrated that the RCMP's conduct meets the elevated threshold for solicitor-client costs under *Whalen v. Canada (Attorney General)*. The systemic bad faith, total statutory delinquency, and coordinated obstruction of ATIA obligations justify a full indemnity award.

873
[226] The Applicant has also demonstrated a real and substantial risk of spoliation of volatile digital evidence, warranting a writ of prohibition to preserve metadata, logs, audit trails, and digital artifacts.

[227] The Court’s supervisory jurisdiction is engaged. The rule of law requires decisive intervention. The Applicant is quite right and equitable to self-refer by the Latin vernacular of “Pro Se” but “Pro Bono Publico”. While the common law is to evolve incrementally, the onslaught underlying these three distinct access requests under federal statutes did not incrementally evolve but rapidly devolved upon him. The authorities in his Applicant Record involving Dagg, Lavigne, Cash Converters and McInerney v. Macdonald are all binding but for Cash Converts (ONCA) and most fitting. The distinction between “not willing” versus “not able” is well-taken along with that of the analogy to “Pandora’s box” in the modern digital environment.

[228] For all of these reasons, the Application is granted. The declarations sought are issued. Mandamus and prohibition are granted. Full indemnity costs are awarded. The Court remains seized.

FEDERAL COURT

BETWEEN:

KEVIN A. McLEAN

Applicant

and

ROYAL CANADIAN MOUNTED POLICE, MICHAEL DUHEME, JEFF BALL, and STEPHANE
BRISSON —

Respondents

ORDER

THIS APPLICATION, made by the Applicant pursuant to ss. 18 and 18.1 of the *Federal Courts Act*, came before the Court for determination in writing.

UPON REVIEWING the Notice of Application, the Rule 317 Request, the Motion Record, the Application Record, the Supplemental Application Record, the Applicant's Written Representations, and the uncontested evidentiary record;

AND UPON NOTING the Respondents' failure to file a Notice of Appearance under Rule 305, failure to comply with Rule 318, failure to transmit the Certified Tribunal Record, failure to file a written objection, and failure to participate in this proceeding;

AND UPON CONSIDERING the Reasons for Order issued concurrently;

THE COURT ORDERS THAT:

A. DECLARATIONS

1. It is declared that the RCMP breached its statutory duty to conduct a reasonable search under the *Privacy Act*.
2. It is declared that the RCMP failed to exercise mandatory statutory discretion under s. 8(2)(m) of the *Privacy Act*.

3. It is declared that the RCMP issued a defective statutory notice under s. 10(1)(a) of the ATIA.
- 875** 4. It is declared that ATIA Request #1 and ATIA Request #2 entered crystallized deemed refusal under s. 10(3).
5. It is declared that the RCMP's contradictory positions across the Privacy Act Request, ATIA #1, and ATIA #2 constitute formal admissions and an abuse of process.
6. It is declared that the RCMP is in ongoing breach of Rule 318.
-

B. MANDAMUS

7. The RCMP **shall transmit** the Certified Tribunal Record (CTR) to the Registry **within 24 hours** of service of this Order.
8. The RCMP shall simultaneously serve the CTR on the Applicant.
9. The Applicant is granted **leave to bring a contempt motion** if the RCMP fails to comply.
-

C. PROHIBITION & PRESERVATION OF EVIDENCE

10. The RCMP, its officers, employees, agents, contractors, and automated systems are **prohibited** from deleting, altering, overwriting, sanitizing, archiving, compressing, flattening, or otherwise modifying any metadata, logs, audit trails, or digital artifacts associated with:
- CPIC Offline Historical Database entries;
 - PPU 005 metadata;
 - ADD/MODIFY/CLEAR/CANCEL logs;
 - hexadecimal dumps;
 - operator logs;
 - terminal identifiers;
 - routing logs;
 - GrapeCity/MESCIUS PDF manipulation logs;
 - Police Case ID 457197;
 - any identifiers associated with the Applicant.
11. This prohibition remains in effect until final disposition of the judicial review and any appeals.
-

D. COSTS

12. The Applicant is awarded **solicitor-client (full indemnity) costs**, payable forthwith by the Respondents.
13. The Applicant's Draft Bill of Costs (Tab 25) is accepted as accurate and reasonable.
14. Costs are fixed in a **lump-sum amount**, to be determined upon the Applicant's filing of a short written submission on quantum, unless the parties agree to an amount within 10 days.
-

E. COURT REMAINS SEIZED

876 15. The Court remains **seized** of this matter for the purpose of supervising compliance with this Order and issuing any further directions necessary to give it full effect.

DATED at Toronto, Ontario, this ____ day of _____, 2026.

The Honourable Justice _____

Federal Court of Canada

