Information and Privacy Commissioner/Ontario
Commissaire à l'information et à la protection de la vie privée/Ontario

ORDER MO-2199

Appeal MA-060003-1

Waterloo Regional Police Service

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NATURE OF THE APPEAL:

The Waterloo Regional Police Service (the Police) received a request from a newspaper reporter under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for the following information:

> Please consider this an access to information request for the department's database of calls for service for the years 2004 and 2005 up to and including the present date.
>
> I request the information in electronic form. Enclosed is a cheque to cover the application fee for this request. Because I am filing this request in the public interest, I ask that any further fees be waived.

The Police denied access to the information requested pursuant to sections 8(1)(a), (b) and (c) (law enforcement); section 8(1)(e) (endanger life or safety); section 8(1)(l) (facilitate the commission of an unlawful act); and sections 11(f) and (g) (economic and other interests). The Police also relied on section 14(1) (unjustified invasion of privacy) and stated that the presumption in section 14(3)(b) applied as well as the factors in section 14(2)(e) and (f) also applied.

The requester (now the appellant) appealed the decision of the Police to this office.

During mediation, the appellant, who is a member of the media, raised the application of the public interest override found at section 16 of the *Act.* No further mediation was possible and this matter was moved to the adjudication stage of our appeal process.

Initially, I sought representations from the Police. I received those representations and then shared them in their entirety with the appellant. I invited the appellant to submit representations and she did. I then provided a complete copy of the appellant's representations to the Police and invited them to make representations in reply, which I received.

RECORD:

The record at issue is the call for service database, in electronic form, maintained by the Police which includes 28 fields of information. The 28 fields are described in detail below. The database contains 155,635 entries for 2004 and 169,185 entries for 2005.

DISCUSSION:

BACKGROUND

The call for service database contains information collected by the Police to enable them to conduct analysis of crime and to assist them in making decisions about deployment of resources and identifying high crime incident locations. The information collected relates to calls for service from members of the public and the Police response to those calls. As mentioned, it contains 28 different fields of data that have been described by the Police as follows:

Field	Information Contained in Field
1 Occurrence number	Each call generates a number which serves as an identifier for the incident
2 Building number	Building number
3 Apartment number	Apartment unit number
4 City	Name of City
5 Address	Street number and Street name
6 Report Date	Date of call
7 Report Time	Time call was received in communications centre
8 Sector	Small internal geographic or reporting centre within a Zone
9 Division	Regional Municipality is divided into 3 divisions and 2 satellite substations within those divisions
10 "900" codes	Internal Police codes used as a means of identifying the type of incident for each call so that it can be shared over radio/data transmissions confidentially – some police services refer to these as the codes
11 Priority	Internal system used to assign and identify a call's importance based on the nature of the call
12 Disposition	Identifies whether the call required a report or not, was cancelled, or was a duplicate call
13-14 Receiving Date and Time	Identifies the date and time the call was received
15-16 Disposition Date and Time	This is often the same as #6 and 7
17-18 Arrival Date and Time	Date and time officer arrives at address of call
19-20 Clearance Date and Time	Date and time the officer leaves the scene
21 Delay	Time the officers may have delayed before responding to the call
22 Travel	Time between the time call received and the time call cleared
23 Onscene	Time officer arrived onscene
24 Response	Time calculated in the same manner as field 22
25-27 Day, Month and Hour	This is the same information that is in field 24
28 Zone	This is a defined geographic area within a Division that is further subdivided into sectors

To be clear, the field referred to above as "address" (field 5) contains a municipal house or building number and street name. I will use the term "street number" in this order when

referring to the municipal house or building number in this field to avoid any confusion with the information that appears in field 2, referred to above as the "building number".

SCOPE OF THE REQUEST

The appellant raises an issue in her representations that relates to the scope of the request. The appellant requests that the Police provide her with the zone and sector maps for the geographic area serviced by the Police. She states:

> Although not stated in the original FOI request, the request for maps has been part of ongoing discussions between the newspaper and the police since the very beginning.

The Police take the position that the appellant's request for the zone and sector maps is beyond the scope of the request as it was not part of the original request that gave rise to this appeal.

Section 17 of the *Act* applies to the issue raised by the appellant's request for the maps. It imposes certain obligations on requesters and institutions when submitting and responding to requests for access to records. This section states, in part:

> (1) A person seeking access to a record shall,
>
> (a) make a request in writing to the institution that the person believes has custody or control of the record;
>
> (b) provide sufficient detail to enable an experienced employee of the institution, upon a reasonable effort, to identify the record; and
>
> . . . . .
>
> (2) If the request does not sufficiently describe the record sought, the institution shall inform the applicant of the defect and shall offer assistance in reformulating the request so as to comply with subsection (1).

Section 17(1)(a) requires a person seeking access to a record to make a request in writing to the institution that the person believes has custody or control of the record and to provide sufficient detail to enable an experienced employee of the institution to identify the record. If the request is not sufficiently detailed, the institution shall inform the requester, offer assistance and seek clarification of the request, if necessary.

Previous orders of this office have established that to be responsive, a record must be "reasonably related" to the request. In Order P-880, former Adjudicator Anita Fineberg stated:

> In my view, the need for an institution to determine which documents are relevant to a request is a fundamental first step in responding to a request. It is an integral part of any decision by a head. The request itself sets out the boundaries of relevancy and circumscribes the records which will ultimately be identified as being responsive to the request. I am of the view that, in the context of freedom of information legislation, "relevancy" must mean "responsiveness". That is, by asking whether information is "relevant" to a request, one is really asking whether it is "responsive" to a request. While it is admittedly difficult to provide a precise definition of "relevancy" or "responsiveness", I believe that the term describes anything that is reasonably related to the request. (See also Order P-1051)

Regarding the approach that an institution should take in interpreting a request, former Adjudicator Fineberg stated:

> ... the purpose and spirit of freedom of information legislation is best served when government institutions adopt a liberal interpretation of a request. If an institution has any doubts about the interpretation to be given to a request, it has an obligation pursuant to section 24(2) of the *Act* to assist the requester in reformulating it. As stated in Order 38, an institution may in no way unilaterally limit the scope of its search for records. It must outline the limits of the search to the appellant.

I adopt this approach to the issue in the circumstances of this appeal.

Applying a liberal interpretation, I find that the request noted above was clearly framed by the requester and was limited to the information contained in the database that she identified. The zone and sector maps referred to by the appellant in her representations are not reasonably related to the request even on a liberal interpretation. Therefore, I find that the scope of the request does not include the zone and sector maps. If the appellant wishes to seek access to that information, she will need to file an additional request with the Police.

Before I leave the issue of the scope of the request, there is one other issue that I must consider. The appellant's request asks for the information in the database in electronic format. In representations filed by the Police, it states that in conversations that their staff have had with the appellant, she has requested the data in Excel format. The Police argue that given that this is not the program originally used to store the data, "it is not obligated to create a record in a format that it does not electronically use". The Police go on to state that if it is ordered to convert the data into Excel there will be an additional cost for labour and computer costs.

The appellant states:

> The request is for data in electronic form. The newspaper suggested Microsoft Excel as one way the database could be exported. There are many others, including ASCII delimited text. Any format that could be zipped and burned on

> disks, and opened on a Windows-based PC would be sufficient. The newspaper is open to working with the [Waterloo Regional Police Service (WRPS)] to ensure this data can be released in a format easily handled by the police computer systems.

In my opinion, the Police have an obligation to maintain their electronic records in formats that ensure expeditious access and disclosure in a manner or form that is accessible by all members of the public. In the electronic age, this is essential for an open and transparent government institution. The Police have acknowledged that they have the means to convert the data into another format that is accessible by the appellant, and have provided me with a sample electronic copy in Excel format. To the extent that I order any part of the record disclosed to the appellant, I will order them to provide the information in that format or any other format that is agreeable to both the Police and the appellant. Any issues regarding the fee for the conversion are dealt with below.

PERSONAL INFORMATION

In order to determine which sections of the *Act* apply, it is necessary to decide whether the record contains "personal information" and, if so, to whom it relates. That term is defined in section 2(1). The relevant portions of the section are as follows:

> "personal information" means recorded information about an identifiable individual, including,
>
> (a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual,
>
> (b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,
>
> (d) the address, telephone number, fingerprints or blood type of the individual,
>
> (h) the individual's name if it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual;

The list of examples of personal information under section 2(1) is not exhaustive. Therefore, information that does not fall under paragraphs (a) to (h) may still qualify as personal information [Order 11].

The meaning of "identifiable"

To qualify as personal information, it must be reasonable to expect that an individual may be identified if the information is disclosed [Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.)]. Therefore, information is identifiable if there is a reasonable expectation that an individual may be identified by the disclosure of the information.

It is important to reiterate that the record does not contain the names of any individuals and therefore the issue is whether the record contains information that is "about an identifiable individual". In making this determination, I must look at the information in the context of the record as a whole. Furthermore, I understand that information without personal identifiers attached may not be truly non-identifiable if it can be combined with other information from other sources to render it identifiable.

Initially, I will consider whether the database of information in its aggregate form contains personal information about an identifiable individual or whether there exists a reasonable expectation that an individual may be identified if the information is disclosed. If the database, in its aggregate form, either contains information about an identifiable individual or there is a reasonable expectation that an individual may be identified from the information using other sources, this will qualify as "personal information" unless the database can be severed to render the remaining information non-identifiable.

The parties made representations regarding the information that is contained in the individual fields of information, the particulars of which are set out below. Having reviewed the representations of the parties and the database, I find that the database contains information that could reasonably lead to the identification of individuals and therefore, I find that the database taken as a whole contains "personal information". However, I have also found that it is possible to render the information in the database non-identifiable, by severing specific fields of data. The reasons for my findings follow.

The Police submit that the following fields in the database contain personal information that is subject to the mandatory exemption found in section 14(1) of the *Act*: municipal address details (found in fields 2, 3, 4 and 5); the sector (field 8); division (field 9); disposition (field 12); and zone (field 28). I now turn to consider the position of the Police.

Disposition (Field 12)

Initially, the Police submitted that the disposition field contains names of victims, witnesses, children and accused and that all of this information fell within the definition of personal information in the *Act*.

After carefully reviewing the electronic and paper samples of the record that were provided to this office, and the representations filed by the parties, I decided to seek supplementary representations from the Police on this issue. In response to my request, the Police suggest that since 2004, the data contained in the disposition field is only populated with the following three-letter codes RTF (report to file), NR (non-reportable), CAN (cancelled) and DUP (duplicate call). The Police state:

> As noted above, the conversion of the raw data into the report that the appellant is requesting changed in 2004. As a result, the Disposition data field is supposed to be populated with only a three letter code…However, pre-2004 data and anything that is not manually filtered as set out above will contain data that identifies a person's name, outcome, etc. as set out in our previous submissions. As a result, our data can be limited to three characters only. The sample provided was small enough that we were able to ensure the variable types and very specific dataset requirements were converted and met the letter codes only. *Our service would have no objection if this field was limited to what we use via the manually set filter (i.e., the three letter codes).* (emphasis added)

It should be noted that as the request for access includes information entered in the database from 2004 to the date of the request, the information that was contained in the database prior to 2004 is not relevant to this appeal. Therefore, I need only determine whether the disposition field as it exists from 2004 contains personal information. The Police state that since 2004 this field has not contained personal information and they have no objection to disclosing the codes that populate this filed from that year forward.

I agree with the Police's assessment that disclosure of the three-letter codes that appear in the disposition field from 2004 onwards could not reasonably result in the identification of individuals. I therefore find that the information in this field is not personal information as that term is defined in the *Act*. I will order the Police to disclose to the appellant the three letter codes that populate the disposition field (field 12) as they consent to the disclosure of this information. It will not therefore be necessary for me to consider the application of the other exemptions claimed by the Police for this information.

Municipal Address (Fields 2, 3, 4 and 5)

As noted, the Police submit that the disclosure of the municipal address information along with the other information in this database would reveal something of a personal nature about an identifiable individual. Having carefully reviewed the record and the representations of the parties, with two exceptions, I find that disclosure of all of the municipal address information contained in the four fields, namely the apartment number (field 3), building number (field 2) and address (field 5) and city (4), in aggregate, along with the other information in the database, would reveal something of a personal nature about an identifiable individual. I make this finding because in my opinion there is a reasonable expectation that an individual may be identified from

this information when combined with other sources. Accordingly, I find that this information constitutes personal information as defined in section 2 of the *Act.*

However, if the information relating to the building number (field 2), apartment number (field 3) and the street number (part of field 5) is severed from the database, I find that the street name, city and other remaining address information in the database does not provide sufficient information to reasonably identify a specific individual. Disclosing address related information with the building number, apartment number and street number removed would render identifiable information non-identifiable, thereby removing it from the scope of the definition of "personal information".

The Police submit that the full municipal address in the calls for service database is personal information because, with those addresses, it is possible to identify the individual who resides at that location.

The appellant submits that the full municipal address is not personal information because it is not possible to connect any criminal activity to the municipal address as the call for service may not have originated or be related to that address. In the alternative, she states that if this office finds that the municipal address is personal information, then she asks that the "municipal street address be severed from the street names". The appellant states that severing the municipal street address from the fields of information relating to the municipal address, would render the information in the database anonymous.

The Police did not make any representations on the effect of severing the apartment number, street number or building number from the full municipal address despite having been given the opportunity to do so in reply. However, in reply representations, the Police state:

> The Appellant, in mediation, was given ample opportunity to amend their request. But this Police service was never given a firm direction regarding removal of specific fields within the database. In essence, removing specific fields is "creating a record", which, according to the Act, the institution is not required to do. If so ordered by the Commission, then there would be an obvious cost to this service to create a new computer program to provide the so-ordered information to the requester, and would be outside the scope of the Act.

However, the Police also state:

> The WRPS [the Police] has and remains willing to cooperate with the appellant regarding its obligation under subsection 4(2) of the Act regarding the disclosure of as much of any responsive record as can reasonably be severed without disclosing material which is exempt.

Before I proceed to set out my reasons for my findings on the personal information issue, I wish to respond to this position. As is correctly noted by the Police, the obligation to sever information from a record is set out in section 4(2) which states:

> If an institution receives a request for access to a record that contains information that falls within one of the exemptions under sections 6 to 15 and the head of the institution is not of the opinion that the request is frivolous or vexatious, the head shall disclose as much of the record as can reasonably be severed without disclosing the information that falls under one of the exemptions.

At the outset of my analysis on this issue, I note that the Police have recently indicated a willingness to filter the data that may be contained in the disposition field. I can only infer that this can be done with some ease and without significant disruption to its operations and therefore, in these circumstances, I find that it is not unreasonable to expect the Police to sever other information from the database.

Moreover, removal of the data fields and removal of data that is contained in those fields does not amount to the creation of a record. Rather, severing information from the record by removing a data field is simply complying with an institution's obligation set out in section 4(2). Accordingly, I do not agree with the Police's position that an order that requires severances to be made from an electronic database amounts to an order compelling the creation of a record.

I now turn to consider whether the full municipal address is personal information about an identifiable individual and, if so, whether any information can be severed from the record to render the individual non-identifiable. The address information in the call for service database records the address from which calls for Police service have originated and the address to which the Police attended in response to a call for service. In these circumstances, the address, in my opinion, is referable to an identifiable individual and is therefore "personal information" as defined in the *Act*.

In arriving at my finding regarding the personal information in the database, I have taken into account the fact that a number of orders from this office have found that the complete municipal address of a property is the personal information of an identifiable individual [see Orders PO-2322, PO-2265]. I adopt the approach taken in these orders which have found that with the use of reverse directories and other tools that are widely available to search and identify residents, it is possible to identify residents of a municipal address and therefore, there is a reasonable expectation that the release of the full address will result in the identification of individuals. In Order PO-2265 former Assistant Commissioner, Tom Mitchinson stated:

> In this appeal, the appellant is seeking the street address, city, postal code and specific unit number that is subject to an application before the Tribunal. In my view, if all of this address-related information is disclosed, it is reasonable to expect that the individual tenant residing in the specified unit can be identified. Directories or mailboxes posted in apartment buildings routinely list tenants by

> unit number, and reverse directories and other tools are also widely available to search and identify residents of a particular unit in a building if the full address is known. Accordingly, I find that the full addresses of units subject to Tribunal applications consist of the "personal information" of tenants residing in those units, as contemplated by paragraph (d) of the definition.

In my view there is sufficient evidence before me to support a finding that the full municipal address is about an identifiable individual and the release of the address will reveal something of a personal nature of the individuals that reside there, for example, that they either called for Police service or that the Police attended at their residence. If the complete municipal address is disclosed to the appellant, it is reasonable to expect that someone residing in those premises may be identified through the use of the tools described above. Accordingly, it follows that the information in these four fields taken together is personal information.

However, once the building number, apartment number and street number are removed from the database, it is no longer possible to identify individuals using the sources described above. Disclosing the information in the database with this information severed would remove it from the scope of the definition of "personal information".

There are two exceptions to this conclusion. The appellant argues in her representations, that some of the address information in the database may refer to the location of motor vehicle accidents or the location of the Police station at which a complaint has been filed. Having carefully reviewed the record, I agree with the appellant that in these circumstances the municipal address information is not referable to an identifiable individual and is not therefore personal information.

In arriving at this conclusion, I adopt the approach taken in previous orders that have found that where an address is not *referable* to an identifiable individual, then that it is not "personal information" [see Order PO-2191]. In Order PO-2191 Adjudicator Frank DeVries found that the address in the occurrence report at issue was simply a reference point used by the Police to identify the location of a collision and that there was no indication that the address was referable to an identifiable individual or that any individual at that address was in any way involved in the incident. In the circumstances identified by the appellant, I follow the approach taken by Adjudicator DeVries in Order PO-2191 and find that the address information referring to the locations of motor vehicle accidents or police stations is not referable to an identifiable individual and therefore does not constitute personal information.

It should be noted however, that I have no evidence before me to identify the entries in the database that may be covered by these two exceptions. Therefore, although I have found that the address information in the database is not referable to an identifiable individual in circumstances where the address identifies the Police station or the location of an incident, I will not order the Police to release the full municipal address in these entries. Section 4(2) of the *Act* compels a head to disclose as much of a record that can *reasonably* be severed without disclosing information that falls under one of the exemptions. I do not think that it would be reasonable,

given the size of this database, to expect the Police to review each and every call in the database to identify the information relating to Police station addresses and locations of incidents and I will not order it to do so.

In summary, based on the appellant's consent to sever municipal street address information if it is found to be "personal information", I will order the Police to sever fields 2 and 3 and the street number from field 5 of the database.

Division, Zone and Sector (Fields 9, 28 and 8)

The information contained in fields that relate to division, zone and sector consists of a series of numeric and alpha-numeric codes that do not reveal any information about an identifiable individual. In these circumstances, I must determine whether or not there exists a reasonable expectation that an individual may be identified from the disclosure of this information using links to other information that may be available from other sources.

For example, a reference to sector 51, zone 137 in division W3 does not on its face reveal any information about an identifiable individual. However, it may reveal information about an identifiable individual if the defined geographic area covered by the code is known and the area covered is so small that there is a reasonable expectation that an individual may be identified.

The Police explain in their representations that the Regional Municipality of Waterloo is divided into three divisions for operational purposes by the Police. Each division consists of a large geographic area. The Police state that although they are not exactly divided by municipal boundaries, the three divisions roughly correspond to the municipalities of Kitchener, Cambridge and Waterloo. There are also two satellite substations within those divisions that refer to New Hamburg and Elmira. The Police state that the divisions vary in size from 126 square kilometres to 406 square kilometres. I note that the geographic area covered by the division codes and the substations is a matter of public record as a map revealing the boundaries of the divisions and substations appears in the 2005 Annual Report released by the Police.

I find that the release of information contained in the division field is not personal information as it is not on its face about an identifiable individual. Nor would the release of this information give rise to a reasonable expectation that an individual might be identified since the size of the geographic area covered by the three divisions and substations is so large that it would not be possible to identify any particular individual by linking this information with information from other sources. Accordingly, this information is not "personal information" as defined in the *Act*.

As noted, the information contained in the zone and sector fields also consists of a code. This information is not on its face about an identifiable individual. I also find that the release of this information would not give rise to a reasonable expectation that an individual might be identified for the following reasons.

The Police explain in their representations that the divisions are divided into zones which vary in size and density of population. The zones may vary in size from .2 square kilometres, in an urban area, to 239 square kilometres in a rural area. The Police state that the smallest geographic area is a sector. Sectors may comprise of one block, one side of a street or one apartment or condominium complex. The Police submit:

> … a sector might only include one or more municipal addresses, [and therefore] sectors could be used to identify those persons.

The Police also submit:

> The size of sector (or atom) is small enough to reveal a particular address if it is the only one on a street (e.g., only residential) or, with the use of information publicly and easily available, the identity or location of a crime scene or victim could be ascertained despite the need or wishes of the victim to the contrary. For example, the high frequency (hundreds or thousands of calls) pairing of a certain police activity (e.g., domestic call) to a particular address or sector could allow for the release of a confidential location of a women's shelter or temporary location for a child in danger.

The appellant disagrees. She submits:

> At a minimum, there seems to be no basis for excluding information at the zone and sector level as personal information.
>
> The police contend that because some sectors are extremely small and may encompass one apartment building or condominium, this constitutes personal information. However, there can be hundreds of units within an apartment building. In fact, there may be more people living in one building than on one entire street of detached homes. In this case, sector information can hardly be considered personal because it does not relate to any identifiable individual - it relates to an administrative boundary drawn by police.

I have carefully considered the representations of the parties. I understand from the representations filed by the Police that the geographic boundaries of the zones and sectors are not known by members of public and as the maps revealing the boundaries are not the subject of this request, it would not be possible for the appellant or anyone else to identify individuals by linking the zone or sector code to other information. Therefore, knowing that a call for service related to sector 21 would not give rise to a reasonable expectation that someone might be identified. That sector could be anywhere within a Division. However, if the sector code is disclosed along with the street name and City in this database it may be possible to determine the general geographic location of the sector although the exact boundaries would not be known.

Even if it is possible to identify the geographic boundaries of the zones and sectors, there is insufficient evidence before me to establish that the zones or sectors cover sufficiently small geographic areas that the release of these codes would give rise to a reasonable expectation that individuals might be identified. In fact, the Police made no representations on the possibility of identifying individuals by the release of the zone codes. In the circumstances of this database, I find that the zone codes reveal no information that would lead to the identification of identifiable individuals.

Although the Police have suggested in their representations that individuals might be identified by the release of the sector code, they have not provided me with a single example of a sector with sufficiently few residents in the sector to support a finding of reasonable expectation of identification. Further, I have no evidence before me that it is possible to make a connection between a sector code and the residence of a particular individual. In these circumstances, I find that I do not have sufficient evidence to support a finding that there is a reasonable expectation that individuals may be identified by the release of the sector codes.

In arriving at my conclusion, I have also taken into account the effect of my earlier finding regarding the release of the street name and city in the database. I have considered whether the sector information together with the street name and the city name may reasonably result in the identification of an individual. In my view, the evidence before me is not sufficient to establish a reasonable expectation of an individual being identified as a result of the release of the sector code combined with the street and city name. As noted above, the sector code reveals nothing about the geographic boundaries of the sector and the evidence of the small size of the sector is not sufficient to support a finding of a reasonable expectation of identification of an individual. Accordingly, I find that the information in the division, zone and sector fields in not personal information.

Conclusion

I find that the only information requested by the appellant in the database that falls within the scope of the definition of "personal information" in section 2(1) is the building number (field 2), apartment number (field 3) and street number in field 5. Because only "personal information" can qualify for exemption under section 14(1) of the *Act*, I will not consider the application of that section to the other information in the database.

PERSONAL PRIVACY

As noted above, I have found that the apartment number, building number and street number components of the full municipal address in the database are personal information, and based on the appellant's position regarding the severance of that information, I will order the Police to sever this information. As no personal information will be disclosed, it is not necessary for me to consider section 14(1). However, for the sake of completeness, I have decided to do so.

Where a requester seeks personal information of another individual, section 14(1) prohibits an institution from releasing this information unless one of the exceptions in paragraphs (a) to (f) of section 14(1) applies.

If any of paragraphs (a) to (h) of section 14(3) apply, disclosure of the information is presumed to be an unjustified invasion of personal privacy under section 14. Once established, a presumed unjustified invasion of personal privacy under section 14(3) can only be overcome if section 14(4) or the "public interest override" at section 16 applies. [*John Doe v. Ontario (Information and Privacy Commissioner)* (1993), 13 O.R. (3d) 767]. If no section 14(3) presumption applies, section 14(2) lists various factors that may be relevant in determining whether disclosure of personal information would constitute an unjustified invasion of personal privacy [Order P-239].

The Police claim that the presumption in paragraph (b) of section 14(3) applies. Section 14(3)(b) states:

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

The Police take the position that the presumption in section 14(3)(b) applies where there has been an investigation into a possible violation of law:

> [W]henever the information is noted or collected in the database as it relates to a possible investigation of breach of a federal or provincial law or municipal by-law, the personal information was compiled and is identifiable as part of an investigation into a possible violation of law. This will vary from individual call to call in the database – with there being 155,635 calls in 2004 and 169,185 calls in 2005.

The appellant argues that the investigations into the possible violation of law may be closed and she suggests that without any evidence before me to confirm that the investigation may be ongoing, I cannot make a finding that section 14(3)(b) applies. The appellant also argues that very few of the calls in the database relate to "actual crimes" or "criminal activity" or "crimes against the person" and she refers to statistical information that is available through the Annual Reports released by the Police to support her argument.

In order for section 14(3)(b) of the *Act* to apply, the personal information must have been compiled and must be identifiable as part of an investigation into a *possible* violation of law.

Section 14(3)(b) applies in circumstances relating to *possible* violations of both *quasi-criminal* and *criminal activity* and, in my view, the section does not have the restricted application suggested by the appellant. This view is supported by previous orders of this office which state that section 14(3)(b) applies in the context of both quasi-criminal or criminal offenses and it applies whether or not charges have been laid in relation to the investigation [Orders P-242, PO-1849, PO-2167]. I have carefully reviewed the record and, in my view, it contains information that was compiled and is identifiable as part of an investigation by the Police into possible violations of law. Accordingly, I find that section 14(3)(b) applies to create a presumption of an unjustified invasion of privacy with respect to the personal information in the database and it is not necessary for me to consider the factors set out in section 14(2) of the *Act.*

The application of section 14(4) was not raised as an issue by the parties to this appeal. Regardless, I find that the exceptions to the 14(3) presumptions that are set out in section 14(4) do not apply in the circumstances of this appeal.

Section 16 has been raised by the appellant and I intend to deal with the possible application of that section below.

In conclusion, I find that the personal information contained in the database, specifically the apartment number, building number and street number, is exempt from disclosure under section 14(3)(b) of the *Act.*

LAW ENFORCEMENT

I now turn to consider the claim by the Police that the remaining information in the database is subject to the law enforcement exemptions. The Police rely upon the discretionary exemptions set out in sections 8(1)(a), (b), (c), (e) and (l). The Police apply these sections to the entire database.

The relevant paragraphs of section 8(1) read:

> (1) A head may refuse to disclose a record if the disclosure could reasonably be expected to,
>
> (a) interfere with a law enforcement matter;
>
> (b) interfere with an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result;
>
> (c) reveal investigative techniques and procedures currently in use or likely to be used in law enforcement;

> (e) endanger the life or physical safety of a law enforcement officer or any other person;
>
> (l) facilitate the commission of an unlawful act or hamper the control of crime.

The term "law enforcement" is used in several parts of section 8, and is defined in section 2(1) as follows:

> "law enforcement" means,
>
> (a) policing,
>
> (b) investigations or inspections that lead or could lead to proceedings in a court or tribunal if a penalty or sanction could be imposed in those proceedings, and
>
> (c) the conduct of proceedings referred to in clause (b)

Except in the case of section 8(1)(e), where section 8 uses the words "could reasonably be expected to", the institution must provide "detailed and convincing" evidence to establish a "reasonable expectation of harm". Evidence amounting to speculation of possible harm is not sufficient [Order PO-2037, upheld on judicial review in *Ontario (Attorney General) v. Ontario (Information and Privacy Commissioner)*, [2003] O.J. No. 2182 (Div. Ct.), *Ontario (Workers' Compensation Board) v. Ontario (Assistant Information and Privacy Commissioner)* (1998), 41 O.R. (3d) 464 (C.A.)].

In the case of section 8(1)(e), the institution must provide evidence to establish a reasonable basis for believing that endangerment will result from disclosure. In other words, the institution must demonstrate that the reasons for resisting disclosure are not frivolous or exaggerated [*Ontario (Information and Privacy Commissioner, Inquiry Officer) v. Ontario (Minister of Labour, Office of the Worker Advisor)* (1999), 46 O.R. (3d) 395 (C.A.)].

It is not sufficient for an institution to take the position that the harms under section 8 are self-evident from the record or that a continuing law enforcement matter constitutes a *per se* fulfilment of the requirements of the exemption [Order PO-2040; *Ontario (Attorney General) v. Fineberg*].

Section 8(1)(l) - facilitate the commission of an unlawful act

Priority Classifications, Police "900" Codes, Division, Zone and, Sector Codes and Temporal Fields

I have already found that the division, zone and sector codes are not personal information and are therefore not subject to the personal privacy exemption at section 14(1) of the *Act*. I now turn to consider whether these parts of the database are exempt under the law enforcement provisions found in section 8(1) of the *Act*. I will also consider here the application of this exemption to the fields of information referred to as priority classification (field 11), Police "900" codes (field 10) and the temporal reporting information in fields 7, 14, 16, 18, 20, 21, 22, 23, 24, and 28.

The Police state:

> The internal police codes (field 10) and priority classifications (field 11) are used to keep patrol officers, communicators, dispatchers and supervisors aware of calls and are essential to the determination of police response and resources. If this information is shared along with the response and temporal fields in the database (i.e. (7) report time, (14) receiving time, (16) disposition time, (18) arrival time, (20) clearance time, (21) delay, (22) travel, (23) onscene, (24) response (27) and response hour), there is a real and substantial risk that those persons engaged in or who wish to engage in criminal activity (organized crime or terror group) could use this information to predict police response time and resources for any given call or area. The implications on officer safety, community safety, crime prevention and law enforcement are palpable.
>
> …
>
> [T]here have been cases in the past that have shown that when those involved in criminal activities become aware of internal police information (e.g. codes, resource allocation, response times) and patterns of police patrols and zone coverage, the effectiveness of the police in their attempt to control these activities has been undermined. This has been previously accepted by the Commission (Order M-757). There is a clear and direct link between disclosure of codes (and other internal police information) and the types of harm described in paragraph 8(1)(l) of the Act (Order M-393).
>
> The principles set out in a variety of Commission decisions regarding internal police codes are equally applicable to the other data fields that include information regarding: "patrol-zone information …and/or statistical codes (Order MO-2065); and fields "identifying the nature of call and patrol-zone, in addition to identifying the investigating officer's unit, division, district, bureau…"(Order MO-2065).

With respect to the temporal fields, the Police also state that this information is basic Police information only and would serve no useful purpose to the appellant. The Police also argue that if individuals intent on criminal activity were aware of the procedures represented by the information contained in these fields then they could be used to counter the activities of the Police in response to emergency situations. The Police state further that this could result in harm to officers and members of the public, and could facilitate the commission of unlawful acts.

In terms of the police codes, the appellant suggests that this office must take into account the identity of the requester and states that her office does not intend to print the 900 codes, the zone or sector maps and their identifying codes and that they will be used by her office only when working in the database. She states:

> However, if the Commission rules that the 900 codes are exempt, we request that the newspaper be provided with the plain language equivalent of the codes.

The appellant argues that it is important to distinguish between resource allocation and response to calls as demand in some areas may go above or beyond resource levels. Therefore, she states that the allocated resources may not relate to the regular practice and they may not reflect the Police's current practice regarding resource allocation. The appellant also states:

> The calls for service database also gives no indication of what kind of resources, if any, the police have in a given zone or sector at a given time. The database merely records the zone and sector related to the call. There could be many officers, including undercover agents, in that zone and sector at that moment. Or there could be none. This is not revealed in the database.
>
> Therefore, revealing the existence of zone and sector information, and the calls within those areas, would reveal neither investigative techniques, nor personal information. Nor would it aid in the commission of a crime.

Despite the suggestion of the appellant that I should consider her identity, in arriving at my decision on the application of the exemptions, I have not done so. In the circumstances of this appeal, disclosure of records under the *Act* is considered to be disclosure to the world and the identity of the requester or the purpose to which the requester intends to put the information is not a relevant consideration. Equally, and contrary to what has been suggested by the Police, the question of whether or not the information requested is useful to the requester is not a consideration under the *Act* in the context of this appeal. The *Act* creates a right of access to information and the record is only exempt from the right of access if it falls within the exemptions clearly provided for in the *Act*.

Police 900 codes, Division, Zone and Sector Codes

A number of decisions of this office have consistently found that Police ten codes or "900" codes, and zone and sector codes qualify for exemption under section 8(1)(l) of the *Act* (see for

example Orders M-393, M-757 and PO-1665). These codes have been found to be exempt because of the existence of a reasonable expectation of harm to an individual or individuals and a risk of harm to the ability of the police to carry out effective policing in the event that this information is disclosed. I adopt the approach taken by previous orders of this office. I have carefully reviewed the representations of the parties and find that the Police have provided me with sufficient evidence to establish a reasonable expectation of harm with respect to the release of this information.

Those orders to do not apply to the division codes in this database as the division codes and the geographic areas covered by these codes are already a matter of public record. Any argument that disclosure of the division codes could facilitate the commission of an unlawful act is not sustainable in this context.

Before I leave this issue of the codes, the appellant has asked the Police to replace the 900 codes in the database with the plain language version of the codes, if I find that the codes themselves are exempt. In response, the Police state:

> The Appellant now requests that it be provided with "the plain language equivalent of the codes". If disclosure of such is ordered, the WRPS submits that the removal of the 900 codes and replacement by plain language equivalent would be acceptable (subject to the fact that it will require additional work and costs to so comply). However, the tying of the plain language equivalent and the priority classification field (field 11) should not be ordered for the reasons set out in the initial submissions.

As I have found that the 900 codes are exempt under section 8(1)(l) of the *Act*, and in view of the position of the Police noted above, I order the Police to provide the appellant with the plain language equivalent for the codes in that field. I commend the Police for their flexible approach in this regard.

Priority Classification

In my opinion, section 8(1)(l) applies equally to the priority classification that the Police assign to particular calls for service. I find that there is a reasonable expectation of harm to others and/or to the ability of the Police to carry out effective policing if individuals intent on committing criminal offences had at their disposal the priority classification codes that the Police assign to various calls for service. Therefore, I find that the Police have provided sufficient evidence to support a finding that section 8(1)(l) applies in the circumstances of this appeal. In arriving at this conclusion, I have taken into account the fact that I have ordered the disclosure by the Police of the plain language version of the 900 codes in the database. I believe that the ability to match the type of call for service with the priority code assigned could reasonably be expected to adversely impact the law enforcement activities of the Police.

Temporal Fields

There is insufficient evidence before me to support a finding that the disclosure of the temporal fields of information could reasonably be expected to facilitate the commission of an unlawful act or hamper the control of crime. I fail to see how this information in the context of this database will assist individuals in the commission of a crime. In arriving at my decision, I have taken into account the fact that the information in this database is historical information that reveals nothing about the current resource allocation practices or policies of the Police. The Police have failed to provide me with the kind of clear and convincing evidence necessary to establish that section 8(1)(l) applies. Accordingly, I find that this information is not exempt under section 8(1)(l) of the *Act*.

In summary, I find that section 8(1)(l) applies to the 900 codes, zone and sector codes, and the priority classification code. However, I will order the police to provide the appellant with the plain language version of the 900 codes as they have undertaken to do. I also find that section 8(1)(l) does not apply to the temporal fields or division codes.

Other information

Although the Police have not made any representations on the application of section 8(1)(l) to the other fields in the database, their decision letter purports to claim the application of this section to all fields. I have carefully reviewed the record itself and find that section 8(1)(l) does not apply to the remaining information in the database.

I now turn to consider the application of the other provisions in section 8 to the information that I have not found to be exempt under section 8(1)(l) of the *Act*.

Sections 8(1)(a) - interfere with a law enforcement matter

The information remaining at issue includes the occurrence number (field 1), city (field 4) and street name (part of field 5), report date (field 6), report time (field 7), division (field 9), disposition (field 12), receiving date (field 13), receiving time (field 14), disposition date (field 15), disposition time (field 16), arrival date (field 17), arrival time (field 18), clear date (field 19), clear time (field 20), delay (field 21), travel (field 22), onscene (field 23), response (field 24), response day, month and hour (fields 25-27).

In order to find that section 8(1)(a) applies to this information, I must first find that it relates to "law enforcement". I must then find that there is a law enforcement "matter" that is ongoing, as previous orders have found that the exemption in section 8(1)(a) does not apply where the matter is completed, or where the alleged interference is with "potential" law enforcement matters [Orders M-773, PO-2085, MO-1578]. I am also required to find that the disclosure of the information could reasonably be expected to *interfere* with the law enforcement matter.

The Police state:

> The difficulty that the WRPS has in establishing that all of the information requested falls under "law enforcement" is directly related to the extreme breadth of the request. Nevertheless, the records at issue relate to a wide scope of police activity – the entire database is generated as a result of the mandate – therefore, law enforcement.

The Police submit that much of the data in the database relates to "law enforcement" with the exception of the data that relates to time spent by the Police in activities such as purchasing gas, community contact etc. The Police state that law enforcement as it is used in section 8 includes policing activities such as community mobilization and the release of the information in this record will undermine these community based efforts as it could negatively impact relationships with different neighbourhoods/areas in the Region.

The Police also state that some of the information in the record relates to proceedings where charges may have been laid and that once matters have progressed to prosecution, entities such as the federal or provincial crown attorney have a direct interest and responsibility regarding the release of information in the record. The Police also state that the proceedings may be subject to a court order regarding the publication of information that directly or indirectly may be included in the records. The Police quote extensively from the provisions of the *Youth Criminal Justice Act* which sets out restrictions on the publication of information that may relate to individuals that are youths as defined in that act. The Police state:

> Perhaps more importantly, some of the records will relate to on-going law enforcement matters that involve the use of covert police agents, informant and our legally sanctioned surreptitious intelligence or law enforcement. To reveal, even indirectly, this information could put the safety of officers or informants in jeopardy.

However, the Police state that it is not possible to identify whether each of the calls relates to an "ongoing" law enforcement matter due to the volume of information in the database.

The Police argue that the disclosure of the information will interfere with the law enforcement matter because patterns of activities could be ascertained and could be used to plan and perpetrate organized criminal and/or life endangering activities around fluctuations in Police coverage and response times. The Police state that the information could be used to predict response times and resources in an area and that this would have implications for crime prevention and law enforcement. The Police also state that this information could put the safety of officers, witnesses or informants in jeopardy.

The appellant submits that the records are not in relation to law enforcement as they do not relate to a specific, ongoing investigation. She states that the exemption in section 8(1)(a) does not apply to "potential" law enforcement investigations or to investigations that have been

completed. The appellant states that the information in the database is about complaints and not investigations. The information in the record is about the demand on the Police service placed by the community and the Police response to that demand. The appellant submits:

> The police suggest that because they created the database as part of fulfilling their mandate to preserve the peace, prevent crimes and apprehend criminals, that it therefore is a law enforcement exercise.
>
> That argument suggests that everything a police officer does…can be considered a law enforcement matter and is therefore exempt from public disclosure. This goes against the spirit of the Act, which supports transparent and accountable government agencies.

I have carefully reviewed the representations of the parties. The Police have provided me with sufficient information to support a finding that most of the information in this call for service database is in relation to law enforcement as that term is defined in section 2 of the *Act.* I am satisfied that most of this information was collected by the Police in the course of its investigations into possible violations of the criminal or quasi-criminal laws and I therefore find that most of the information relates to law enforcement matters.

In addition, I find that the Police have provided me with sufficient evidence to conclude that some of the information in the database relates to law enforcement matters that are ongoing. Although I have not been provided with any specific examples of ongoing law enforcement matters, I believe that it would be reasonable to infer that some of the calls for which the data was collected relate to specific ongoing law enforcement matters.

However, the evidence provided does not demonstrate that the disclosure of the type of information that is contained in this database could reasonably be expected to *interfere* with a specific ongoing law enforcement matter. The type of information that is remaining at issue in this record is not the type of information that could be used to assist those engaged in criminal activity in their efforts to subvert the activities of the Police. The information in the record is historical data and it reveals nothing about the plans or processes or resource allocation policies of the Police. The representations of the Police on this issue amount to mere speculation and do not support a finding that section 8(1)(a) applies.

As noted above, the Police submit that disclosure of the temporal information will adversely impact their ability to work with members of the community if those individuals feel inadequately served by the Police. On this issue I agree with the position taken by the appellant, who argues that a deficiency in response times can not be used as the basis for a claim that information is exempt.

The Police argue that some of the information in the database may be the subject of a publication ban but due to the sheer volume of information they are not able to identify the relevant portions of the record. Without deciding that a publication ban is, in fact, a relevant consideration in

relation to section 8(1)(a), I note that I have not been provided with any information as to the precise nature of the alleged publication ban or bans. However, given that I have ordered that the personal information in the database be severed, with the consequence that the remaining information is rendered non-identifiable, I have concluded that the disclosure of this information to the appellant will not result in a violation of any publication ban.

As noted above, the Police also argue that some of the information in the database will involve "young persons" under the *Youth Criminal Justice Act* which protects the privacy of investigated, charged or convicted young persons, and "young persons" who are witnesses in law enforcement matters. However, the effect of the order provisions that relate to the personal information in the database is that the information has been rendered anonomyzed and that no individuals, youth or otherwise, are capable of being identified by the disclosure of the remaining information in this record. In these circumstances, I find that the *Youth Criminal Justice Act* has no impact on the disclosure of these records.

The Police have failed to satisfy me that the exemption applies. Accordingly, I find that section 8(1)(a) does not apply to the information in the database that remains at issue.

Section 8(1)(b) – interfere with an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result

The Police also claim that section 8(1)(b) applies to all of the information in the database. With respect to the application of this section, the Police state that their submissions relating to section 8(1)(a) are equally applicable to this section and state that all of the calls to the Police require some investigation regardless of whether the call is cleared as cancelled or no report is filed. The Police state that because the request is for recent occurrence data, a high percentage of the investigations will be ongoing and/or with the Crown for prosecution and any disclosure of ongoing investigations will taint the investigation, have a deleterious impact on victims or witnesses to crimes and undermine subsequently obtained publication bans. The Police state that some of the calls are in relation to SIU law enforcement matters, and disclosure could contravene best practices and in some cases section 12 of the *Police Services Act.*

The appellant asks that her representations with respect to the application of section 8(1)(a) be applied to the issue of the application of section 8(1)(b).

The nature of the evidence required to demonstrate that section 8(1)(b) applies is similar to that required under section 8(1)(a). The evidence must be detailed and convincing. In general, the considerations in section 8(1)(b) are similar to those under 8(1)(a). There must be evidence before me to establish that the disclosure of the information could reasonably be expected to *interfere* with an ongoing law enforcement investigation.

The Police have failed to provide the kind of clear and convincing evidence required to support the application of this exemption. I find that there is insufficient evidence to demonstrate that the information at issue in this database, which is primarily historical data about response times,

and which has been rendered non-identifiable by the severances that I have ordered above, could reasonably be expected to *interfere* with ongoing law enforcement investigations. Accordingly, I find that section 8(1)(b) does not apply to the information at issue.

Section 8(1)(c) - reveal investigative techniques and procedures

The Police also claim that section 8(1)(c) applies to all of the information that is contained in the database. The Police state:

> The technique or procedure in question is a comprehensive collection, sorting and processing of police generated data arising from police activities so that it can be effectively analysed, interpreted and applied in a fashion so that WRPS can effectively and safely meet its legislatively mandated responsibilities regarding law enforcement and crime prevention.
>
> Patterns of crime, police response and coverage are all essential items to the techniques and procedures used by the WRPS.
>
> As well, the release of information regarding response time and call priority could reasonably lead to misinformation and misunderstanding if released to the public. The statistical analysis of the database, as used by WRPS's Research and Planning Branch and Senior Administration, is specific to their mandate under the *Police Services Act* and not easily explained or understood by the public.
>
> …
>
> The technique or procedure is "investigative" and is and will continue to be used in law enforcement. The method and "how" the data is used by the police is not and cannot be generally known to the public.
>
> …
>
> Keeping this information non-public allows WRPS to track and predict/project crime patterns and to allocate resources to prevent crime and/or capture the perpetrators. Revealing this information publicly, said colloquial, is the equivalent of making public the police "play book" (or at the very least, all the background work required to finalize the actual plays) – this has serious and important implications when the "other team" could be organized crime or terrorist.
>
> Premature disclosure of information, namely locations of certain types of crime (that may be the result of only one criminal or related incidents or a statistical anomaly), could potentially target areas of the Region as high-crime neighbourhoods and unfairly affect the quality of life of citizens living in those

> areas. Once again, analysis of the data by those unfamiliar with the information may result in information released to the public that is inaccurate and potentially affect police investigative capabilities.

The appellant states:

> For section 8(1)(c) to meet the definition of an investigative technique or procedure: "Police must show that disclosure of the technique or procedure to the public could reasonably be expected to hinder or compromise its effective utilization. The exemption normally will not apply where the technique or procedure is generally known to the public. Furthermore, the techniques or procedures must be 'investigative.' The exemption will not apply to 'enforcement' techniques or procedures." [Orders P-170, P-1487, PO-2034, P-1340]

The appellant also states that the database is used to record information. She also states that there is a general expectation that when a member of the public telephones the Police a record will be made of the calls. This is the public's expectation of how the Police will conduct business and it is therefore not an investigative technique or procedure. The appellant argues that the submissions of the Police support a finding that the data is largely collected for resource allocation and it is not used primarily for enforcement or investigation. The appellant notes that the request is for raw data and not for any analysis that the Police may have conducted using the data.

In reply, the Police state that the appellant has misstated the meaning behind the term investigative technique or procedure. The Police state that the information is used for intelligence based crime prevention within the police service. The Police add that the primary purpose for which the information is collected is irrelevant to the application of the exemptions and states that resource allocation is directly tied to enforcement and investigation.

I agree with the appellant, in part, and find that section 8(1)(c) does not apply to the information in the database. Before techniques or procedures can be exempt under this section, they must be "investigative" in nature [Orders PO-2034, P-1340 and P-1269]. In arriving at this conclusion I adopt the approach to the interpretation of this section taken by former Adjudicator John McCamus in Order P-170 which states:

> This issue has arisen for consideration under an equivalent provision of the American Freedom of Information Act. Indeed the wording of the equivalent provision of the American statute, prior to revisions effected in 1986, was very similar to the Ontario provision. That version of the Act, 5 U.S.C. sec. 552(b)(7)(E), exempted investigatory records compiled for law enforcement purposes to the extent that production of such records would "disclose investigative techniques and procedures". In a series of cases, American courts have held that in order to constitute an investigative technique or procedure in the

> requisite sense, the technique or procedure in question must not be so routine in nature that it is already well known to the public. (See, for example, Jaffe v. CIA [1983], 573 F. Supp. 549 (DDC) and see generally, J. T. O'Reilly, Federal Information Disclosure (Sheppard's/McGraw-Hill Inc., Colorado; 1987), chapter 17.11.1.
>
> In my view, a similar reading should be given to the Ontario provision. In order to constitute an "investigative technique or procedure" in the requisite sense, it must be the case that disclosure of the technique or procedure to the public would hinder or compromise its effective utilization. The fact that the particular technique or procedure is generally known to the public would normally lead to the conclusion that such compromise would not be effected by disclosure and according that the technique or procedure in question is not within the scope of the protection afforded by section 14(1)(c).

In my opinion this record does not reveal a methodology, plan, procedure or process that might be characterized as an investigative technique. This record is a collection or collation of raw historical data that is maintained by the Police. It reveals no information about how the Police should or will conduct themselves or how they should or will respond to calls. It says nothing about how priorities are to be established by the Police in responding to calls. There is no information in this record that relates to the methods used by the Police to investigate the calls or complaints. There is no information in this record that reveals how the Police use the data for planning and resource allocation. Accordingly, I find that section 8(1)(c) does not apply to the record.

Section 8(1)(e) - life or physical safety

The Police also rely on section 8(1)(e) to exempt the information that is contained in the database. The Police state that disclosure of police codes, priority information and the temporal reporting of response, disposition, arrival, clearance, delay and travel would be useful information for those that wish to do harm to a police officer, a member of the public or commit planned criminal activity. They state that this information could be used to counter the activities of the Police in an emergency situation. This could result in harm to either Police officers or members of the public involved in a Police situation. I have already found that section 8(1)(l) applies to the police "900" codes (field 10), zone codes (field 28), sector codes (field 8) and priority classification (field 11) and therefore, I will not consider the application of this exemption to that information.

The appellant states:

> The police contend that the requested information could endanger the life of a law enforcement officer because it can be used to "counter the actions of the police in response to a variety of emergency situations." The police have not explained

> how releasing this information is expected to do this, nor how that would result in any life being endangered.
>
> Police suggest that disclosure of addresses, through sheer volume of calls will reveal the address of women's shelters. Simply because there is a high volume of calls to a particular location, even if the calls are specific (such as domestic violence) does not immediately reveal that the location is a women's shelter, or that a particular person is staying in that shelter. Perhaps the address is an apartment building, a student dorm, residential correctional facility, nursing home, or another area that may result in a large volume of calls. As such, it is difficult to make the leap that releasing this information would reveal the locations of institutions designed to protect victims of crime.

The appellant also states that historical data about allocated resources does not relate to current and regular practice.

To support a finding that section 8(1)(e) applies, the Police must provide evidence to establish a reasonable basis for believing that endangerment will result from discourse. In other words the Police must demonstrate that the reasons for resisting disclosure are not frivolous or exaggerated [*Ontario (Information and Privacy Commissioner, Inquiry Officer) v. Ontario (Minister of Labour, Office of the Worker Advisor)* (1999), 46 O.R. (3d) 395 (C.A.)]. Therefore, the onus of proof that the Police are required to satisfy regarding the application of this exemption is different from that which applies to the other paragraphs in section 8.

As previously noted, because the information remaining at issue has been rendered non-identifiable, I find that section 8(1)(e) does not apply. In view of the type and historical nature of the data that is remaining in the database, I do not see how disclosure of this information would give rise to the endangerment suggested by the Police. I agree with the appellant that the remaining information reveals nothing about the resource allocation of the Police at the present time or its policies or procedures regarding response time that might be of assistance to those intent on harming the Police or others. Furthermore, the evidence adduced by the Police amounts to no more than mere speculation when it is considered in light of the nature of the remaining information that is in the database. Further, I find some of the harms foreseen by the Police to be exaggerated. For example, there would be easier means for an individual to discover the location of a women's shelter than sifting through records relating to thousands of calls to identify potential patterns. As a result, in these circumstances, it is not reasonable to conclude that the disclosure of the information will result in endangerment. Accordingly, I find that section 8(1)(e) does not apply to the information in the database.

Section 8(5): success of a law enforcement program

The appellant relies upon the exception to the exemption found in section 8(5) of the *Act*. As I have found that the exemptions in section 8 do not apply to a significant portion of the database,

I need only deal with the possible application of section 8(5) to the "900" codes (field 10), priority classification (field 11), zone (field 28) and sector codes (field 8).

Section 8(5) states:

> Subsections (1) and (2) do not apply to a record on the degree of success achieved in a law enforcement program including statistical analyses unless disclosure of such a record may prejudice, interfere with or adversely affect any of the matters referred to in those subsections.

The Police made submissions on the application of the exception to the exemption found in section 8(5) of the *Act* and state that this exception does not apply to the information requested by the appellant. The Police submit:

> This is distinct from the exception of "degree of success in a law enforcement program". This is not bench mark statistics but rather raw data that is used to make operational decisions that affect and effect the safety of our community and police officers.

The appellant states that the information in the database is data that can be used to calculate the degree of success achieved in a law enforcement program, namely the success in responding to calls in the community in a timely and effective manner.

I agree with the Police regarding the application of this section. The information in this record is raw historical data. It is not a record on the degree of success achieved in a law enforcement program. In addition, I find that disclosure of the information that I have already found to be exempt would interfere with the law enforcement activities of the Police. Therefore, I find that the exception to the exemption in section 8(5) does not apply in the circumstances of this appeal.

ECONOMIC AND OTHER INTERESTS

The Police submit that the information in the database is exempt under sections 11(1)(f) and (g) of the *Act*. The relevant paragraphs of section 11 state:

> (1) A head may refuse to disclose a record that contains,
>
> (f) plans relating to the management of personnel or the administration of an institution that have not yet been put into operation or made public;
>
> (g) information including the proposed plans, policies or projects of an institution if the disclosure could reasonably be expected to result in premature disclosure of a pending

> policy decision or undue financial benefit or loss to a person;

The purpose of section 11 is to protect certain economic interests of institutions. The report titled *Public Government for Private People: The Report of the Commission on Freedom of Information and Individual Privacy 1980*, vol. 2 (Toronto: Queen's Printer, 1980) (the Williams Commission Report) explains the rationale for including a "valuable government information" exemption in the *Act*:

> In our view, the commercially valuable information of institutions such as this should be exempt from the general rule of public access to the same extent that similar information of non-governmental organizations is protected under the statute . . . Government sponsored research is sometimes undertaken with the intention of developing expertise or scientific innovations which can be exploited.

Section 11(f)

In order for section 11(f) to apply, the Police must show that:

1. the record contains a plan or plans, and
2. the plan or plans relate to:
   (i) the management of personnel, or
   (ii) the administration of an institution, and
3. the plan or plans have not yet been put into operation or made public [Order PO-2071]

Previous orders have defined "plan" as ". . . a formulated and especially detailed method by which a thing is to be done; a design or scheme" [Order P-348].

The Police state:

> The records detail where our resources are deployed, the amount of time it takes to respond to a call and the number of calls on the go at one time. This information looked at as separate incidents is not nearly as concerning as having the information available in one database – the result of knowing how many resources we have available in any one area at any one time could compromise the safety of officers and the public.
>
> In addition, this information is used by the Chief and Senior Administration to make operational decisions regarding staffing, deployment and operations

> (targeted assignments, undercover operations, etc.). It is worth noting that the *Police Services Act* recognizes the confidentiality of such matters is of such importance that the Police Services Board (the key civilian oversight mechanism to the exercise of police powers and operations) is precluded from involvement in operational decisions of the police force….

The appellant states:

> Section 11(f) and (g) relate to proposed plans and policies.
>
> Previous orders defined a plan as "a formulated and especially detailed method by which a thing is to be done; a design or scheme."….
>
> [T]his request is not for the analysis of the data. Nor is it a request for plans or policies that arise from the analysis of the data. It is for the raw data itself.
>
> …
>
> As well, the database does not reveal how many police resources are in a given area at a given time. It does reveal the demand placed on the police service in a given area at a given time. But it does not reveal the institution's policies toward policing any area of the community.

In reply, the Police state:

> Once again, it is naïve to contend that the fact that the WRPS is not supplying its analysis of the data means that the discretionary exemptions do not apply. The raw data explicitly provides where police resources have been, are and likely will be deployed.

The Police have not provided sufficient evidence of a plan that is not yet put into place that would be affected by the release of the information contained in this record. Although I accept the evidence of the Police that the raw data in the database reveals information relating to "where the police resources have been", I do not agree that the data in the database reveals information about where the resources are or where they will be deployed. The information in the database is historical information that reveals nothing about a plan, in the sense of a "detailed method by which a thing is to be done", that might be put in place in the future. Accordingly, I find that section 11(f) does not apply to the information contained in this database.

Section 11(g)

In order for section 11(g) to apply, the Police must show that:

1. the record contains information including proposed plans, policies or

projects of an institution; and

2. disclosure of the record could reasonably be expected to result in:

(i) premature disclosure of a pending policy decision, or

(ii) undue financial benefit or loss to a person.

[Order PO-1709, upheld on judicial review in *Ontario (Minister of Health and Long-Term Care) v. Goodis*, [2000] O.J. No. 4944 (Div. Ct.)]

For this section to apply, there must exist a policy decision that the institution has already made [Order P-726] and the Police must provide evidence that disclosure of the information could reasonably be expected to lead to the specified result.

In particular, for section 11(g) to apply, the Police must demonstrate that disclosure of the record "could reasonably be expected to" lead to the specified result. To meet this test, the institution must provide "detailed and convincing" evidence to establish a "reasonable expectation of harm". Evidence amounting to speculation of possible harm is not sufficient [*Ontario (Workers' Compensation Board) v. Ontario (Assistant Information and Privacy Commissioner)* (1998), 41 O.R. (3d) 464 (C.A.)].

The Police state:

> Some of the records will contain information including the proposed plans, policies or projects of an institution, as it would detail ongoing police crime prevention projects. While not necessarily identifying it directly, even the crudest analysis of the information could reveal this information. For example, a spike in the calls at a specific location including the times and number of officers detailed would reveal that an overt or covert police operation is or has been taking place at this particular location (as identified by zone, sector, address, depending upon the operation) - e.g., a targeted operation against Breaks & Enters, prostitution or hate crimes.

The appellant disputes that the information contained in the database reveals plans, policies or projects.

In my opinion, the information in this record is statistical and historical data that reveals nothing about the plans, policies or projects of the Police, even inferentially, and the premature disclosure of this information will not jeopardize in any way whatever decisions the Police may decide to make in the future about the deployment of their resources. While I accept that the Police might base their decisions on an analysis of this data, the data itself reveals nothing about what those decisions might be. Accordingly, I also find that section 11(g) does not apply to the information in the database.

EXERCISE OF DISCRETION

The section 8(1)(l) exemption is discretionary, and permits an institution to disclose information, despite the fact that it could withhold it. An institution must exercise its discretion. On appeal, the Commissioner may determine whether the institution failed to do so.

In addition, the Commissioner may find that the institution erred in exercising its discretion where, for example,

- it does so in bad faith or for an improper purpose
- it takes into account irrelevant considerations
- it fails to take into account relevant considerations

In either case, this office may send the matter back to the institution for an exercise of discretion based on proper considerations [Order MO-1573]. This office may not, however, substitute its own discretion for that of the institution [section 43(2)].

Relevant considerations may include those listed below. However, not all those listed will necessarily be relevant, and additional unlisted considerations may be relevant [Orders P-344, MO-1573]:

- the purposes of the *Act*, including the principles that
    - information should be available to the public
    - individuals should have a right of access to their own personal information
    - exemptions from the right of access should be limited and specific
    - the privacy of individuals should be protected
- the wording of the exemption and the interests it seeks to protect
- whether the requester is seeking his or her own personal information
- whether the requester has a sympathetic or compelling need to receive the information
- whether the requester is an individual or an organization
- the relationship between the requester and any affected persons

- whether disclosure will increase public confidence in the operation of the institution

- the nature of the information and the extent to which it is significant and/or sensitive to the institution, the requester or any affected person

- the age of the information

- the historic practice of the institution with respect to similar information

The Police state that they have properly exercised their discretion under sections 8 and 11 of the *Act* and that:

> …the Appellant has not provided any "factual or substantive reasons for the Commission to override such exercise of discretion."

The appellant states that the Police took into account irrelevant considerations by citing the risk of negative public perceptions from the disclosure of information in the record at issue. She argues that the Police concerns regarding the potential media "crisis" are also irrelevant. She also argues that the Police failed to take into account relevant information including the fact that the information should be available to the public, that exemptions from the right of access should be limited and specific, that disclosure might increase public confidence in the operation of the institution and the historical practice of the institution with respect to similar information.

Having found that a significant portion of the responsive record should be released to the appellant, it is necessary for me to consider the exercise of discretion by the Police with respect to the 900 codes, priority classifications, zone and sector codes. I have carefully reviewed the representations of the Police as they relate to the application of section 8(1)(l) to these portions of the database. I am satisfied that they have taken into account relevant considerations and have not taken into account irrelevant considerations in the application of this discretionary exemption. Accordingly, I find that the Police have properly exercised their discretion.

PUBLIC INTEREST OVERRIDE

The appellant argues that the public interest override provision in section 16 should be applied to any information that is found to be exempt from disclosure. Section 16 states:

> An exemption from disclosure of a record under sections 7, 9, 10, 11, 13 and 14 does not apply if a compelling public interest in the disclosure of the record clearly outweighs the purpose of the exemption.

Section 16 does not apply to records exempt under sections 6, 8, 8.1, 8.2, 12 or 15. Therefore, as section 16 can only apply to the information that I have found to be exempt under section 14 of

the *Act*, the issue before me now is whether section 16 applies to the portions of the municipal address that I have found to be exempt under section 14 namely, the apartment number, building number, and street number of the call for service database.

The appellant makes the argument that the approach taken by this office in Order MO-2019 should be followed here so that even if I find that the presumption in section 14(3)(b) applies to the personal information in the record, the information should be released.

In Order MO-2019, I ordered the release of municipal address information relating to marijuana grow house operations. Having found that the municipal address information in these circumstances was personal information and that none of the presumptions in section 14(3) applied, my order requiring the disclosure of the information was based on a weighing of the factors that are set out in section 14(2) of the *Act*. The application of the public interest override provision found in section 16 of the *Act* was not an issue in that appeal. I am unable to take the same approach in the circumstances of this appeal because I have found that the presumption found in section 14(3)(b) applies to the information that I have found exempt. As stated above, where a presumption in section 14(3)(b) applies it can not be rebutted by any of the factors that are set out in section 14(2).

Under section 16, two requirements must be met. First, there must be a compelling public interest in disclosure of the records. Second, this interest must clearly outweigh the purpose of the exemption [see Order P-1398, upheld on judicial review in *Ontario (Ministry of Finance) v. Ontario (Information and Privacy Commissioner)*, 118 O.A.C. 108 (C.A.), leave to appeal refused (January 20, 2000), Doc. 27191 (S.C.C.)]. Section 16 recognizes that each of the exemptions listed, while serving to protect valid interests, must yield on occasion to the public interest in access to information that has been requested.

In considering whether there is a "public interest" in disclosure of the record, the first question to ask is whether there is a relationship between the record and the *Act*'s central purpose of shedding light on the operations of government [Order P-984]. Previous orders have stated that in order to find a compelling public interest in disclosure, the information in the record must serve the purpose of informing the citizenry about the activities of their government, adding in some way to the information the public has to make effective use of, either in expressing public opinion or making political choices [Order P-984]. Furthermore, the existence of a compelling public interest is not sufficient to trigger disclosure under section 16. This interest must also clearly outweigh the purpose of the established exemption claim in the specific circumstances.

The appellant states:

> The release of this data will have the effect of shedding light on the operations of the police department, a government agency. It will allow the public to make more informed decisions as to whether it supports continued budget increases for its local police department and whether it supports the elected officials who serve on the police services board.

> Call for service data is the information used to gauge the demand on police serves and is therefore very closely tied to the police department's annual requests for budget increases to hire more officers.
>
> This has roused "strong interest or attention" in the community when it was asked to approve a significant increase in the police budget, based in part on the claim that rising calls for service meant that police needed to hire more officers to meet demand…..
>
> This budget increase was a significant reason why property taxes rose by 2.6 per cent this year. This was a significant increase to the community and was hotly debated during budget time – which was underway when this request was made.
>
> The police may very well be justified in expanding its ranks year after year. However, it is difficult for the community to accurately judge this without a real understanding of what these calls for service entail.
>
> …
>
> The public has no way to gauge how the police service responds to community demands and whether residents of one poor neighborhood receive comparable response times to residents of rich neighborhoods.
>
> This request is about putting information in the hands of the public about how police resources are being used. It isn't something that should be kept as a mystery from the public, whose taxes face annual raises, in part due to a rising police budget. Without this kind of information, the public will always be somewhat in the dark and unable to evaluate the need to increase resources.

The Police state that there is no compelling public interest in the disclosure of the record in this appeal because there exist other public forums in which the interests of the public can be addressed. The Police also state that there has already been wide public coverage or debate on this issue and that the requirement to disclose statistics under the *Police Services Act* and the requirement to disclose statistics to Statistics Canada, adequately meets the public interest identified by the appellant.

I have carefully reviewed the representations of the parties, and I accept the position taken by the appellant in this appeal regarding the compelling nature of the public interest in the information contained in the database. Like other government institutions, the Police are accountable to the public and they should be governed by the same principles of openness and transparency that are applied to other government institutions. The result is that they should also be accountable to members of public for the level of service that they provide. The record at issue in this appeal is directly related to the level of service that the Police provide to members of the public in

Waterloo Region and the resources they require to fulfill their mandate. In my opinion the information in this record goes to the heart of public accountability.

However, I believe that the public interest in the record is satisfied by the information that I have ordered disclosed. As well, I do not agree that the public interest is sufficiently compelling to outweigh the personal privacy interest that is at stake if I were to order the disclosure of the all of the municipal address details in this appeal. Accordingly, I find that section 16 does not apply in the circumstances of this appeal.

FEE WAIVER

The Police provided an estimate of the fee for the disclosure of the record in its representations. The fee estimate is based on work the Police state is required to prepare the record for disclosure. The details of the work are set out in the representations. The Police also acknowledge that the amount of the fee estimate will vary by the extent to which the terms of this order may require less work than was originally estimated by the Police.

The appellant disagrees with the amount of the fee estimate. She refers to previous orders of this office that have involved requests for access to databases of information that contain more information than appears in the database at issue in this appeal. The appellant states that the fees for access to the information in those appeals were significantly less than what the Police are estimating in this appeal.

However, it is not necessary for me to make a determination on the fee estimate because I have found, for the reasons set out below, that it is appropriate to waive the fee in the circumstances of this appeal. I now turn to consider the parties' arguments on the fee waiver issue.

The appellant requested a waiver of the fee at the time that she filed this request. In her representations, she argues that the information at issue is requested in the public interest and that its disclosure will promote public safety. She adds that as a member of the news media she intends to compile the information requested in news reports and to make it available to the public.

The appellant made the following additional submissions in support of her request for a fee waiver:

> Although the costs were not discussed in detail with police, the newspaper has asked for a fee waiver in its initial request because the information is being requested in the public interest and will promote public safety.
>
> The record relates to demands placed on the police service by the community and the police service's response to those demands. It will be used to compile news reports that will be available for the public. It is therefore a matter of public, rather than private interest.

> The information at issue relates to a public safety issue in that it will contribute to a better understanding of how the police respond to the demands placed upon them by the community. The newspaper expects to disseminate the contents to the public in the form of news reports.

The appellant continues:

> In Alberta Office of the information and Privacy Commission, Adjudication Order #2 (http://www.oipc.ab.ca/ims/clinet/upload/Adjduciation Order_No2.pdf), the adjudicator states that freedom of information legislation:
>
> > *…was intended to foster open and transparent government, subject to the limits provided. To that I would add accountability. The right of the people to require that government account to them is fundamental to a strong democracy. It is with our consent that we are governed by others; that consent is given conditionally upon good government. The decision to continue or withdraw that consent requires that the people have the information required to make an informed decision. Access to information legislation is a means by which people get that information from sometimes reluctant government hands.*
>
> In waiving fees to a newspaper, The Globe and Mail, the adjudicator noted that fees "…discourage the pursuit of the truth. The proper balance is more likely to be found by determining what is genuinely in the public interest rather than by the levy of punishing fees."
>
> The adjudicator found that "the media, in my view, has a higher role to play" beyond its own commercial interest of selling newspapers. Rather it serves as a watchdog and a messenger to the public about the workings of government institutions. Because of this, the adjudicator ruled that the public would benefit from the release of the information and therefore the public body should bear the cost burden.

The Police state that the appellant is a viable business and that dissemination of the record, at least part thereof, could be to the detriment of public safety. It submits that the statistical reporting that it is required to do under the *Police Services Act* and for Statistics Canada is sufficient disclosure to meet the public interest. The Police submit:

> ..that such mandated reporting is the legislatively established balance between (i) the need for public accessibility to police call information and statistics and (ii) the need to ensure that functional and internal police information remains protected to ensure effective and safe policing in our society.

Section 45(4) of the *Act* requires an institution to waive fees, in whole or in part, in certain circumstances. Section 8 of Regulation 823 sets out additional matters for a head to consider in deciding whether to waive a fee. Those provisions state:

> 45. (4) A head shall waive the payment of all or any part of an amount required to be paid under subsection (1) if, in the head's opinion, it is fair and equitable to do so after considering:
>
> (a) the extent to which the actual cost of processing, collecting and copying the record varies from the amount of the payment required by subsection (1);
>
> (b) whether the payment will cause a financial hardship for the person requesting the record;
>
> (c) whether dissemination of the record will benefit public health or safety; and
>
> (d) any other matter prescribed by the regulations.
>
> 8. The following are prescribed as matters for a head to consider in deciding whether to waive all or part of a payment required to be made under the Act:
>
> 1. Whether the person requesting access to the record is given access to it.
>
> 2. If the amount of a payment would be $5 or less, whether the amount of the payment is too small to justify requiring payment.

A requester must first ask the institution for a fee waiver, and provide detailed information to support the request, before this office will consider whether a fee waiver should be granted. This office may review the institution's decision to deny a request for a fee waiver, in whole or in part, and may uphold or modify the institution's decision [Orders M-914, P-474, P-1393, PO-1953-F].

Under section 45(5) of the *Act*, an appellant has the right to ask the Commissioner to review an institution's decision not to waive the fee. The Commissioner may then either confirm or overturn this decision based on a consideration of the criteria set out in section 45(4) (Order P-474).

Many previous orders have held that the onus is on the appellant to demonstrate that a fee waiver would be justified (See, for example, Orders 31, M-166, M-429, M-598, M-914, MO-1285, P-

474 and P-1484). I am also mindful of the Legislature's intention to include a user pay principle in the *Act*, as evidenced by the provisions of section 45.

Section 45(4) requires that I must first determine whether the appellant has established the basis for a fee waiver under the criteria listed in section 45(4) and then, if that basis has been established, determine whether it would be fair and equitable for the fee to be waived. The institution or this office may decide that only a portion of the fee should be waived [Order MO-1243].

Part 1: Basis for the Fee Waiver

Public Health or Safety

The appellant relies upon section 45(4)(c) to support her application for a fee waiver. In previous orders of this office, the following factors have been found to be relevant in determining whether dissemination of a record will benefit public health or safety under section 45(4)(c):

- whether the subject matter of the record is a matter of public rather than private interest

- whether the subject matter of the record relates directly to a public health or safety issue

- whether the dissemination of the record would yield a public benefit by

    (a) disclosing a public health or safety concern, or

    (b) contributing meaningfully to the development of understanding of an important public health or safety issue

- the probability that the requester will disseminate the contents of the record

[Orders P-2, P-474, PO-1953-F, PO-1962]

This office has found that dissemination of the record will benefit public health or safety under section 45(4)(c) where, for example, the records relate to:

- quality of care and service at group homes [Order PO-1962]

- quality of care and service at long-term care facilities (nursing homes) [Orders PO-2278 and PO-2333]

I have reviewed the representations of the parties. I am satisfied that the appellant has provided sufficient evidence to establish that section 45(4)(c) applies in this appeal, subject to the question of whether it is fair and equitable to waive all or part of the fee.

In my opinion, there is a public safety interest in the quality of policing services in this province and the information at issue in this record goes to the heart of the quality of that service. I think that the same standards of accountability and transparency that are applied to those who care for vulnerable members of the public should apply to the Police who are responsible for the security and safety of all members of the public.

The information contained in this record is related to the quality of the service that is provided by the Police to various members of its constituent community. The responsibility for the security and safety of all members of this constituent community is entrusted to the Police and there is a direct connection between crime prevention and law enforcement and the safety of the public. This view is corroborated by comments in the 2005 Annual Report of the Police. In that report, the Police set out their Mission Statement:

> The Waterloo Regional Police Service is committed to a leadership role in crime prevention and law enforcement in a community partnership to improve safety and the quality of life for all people.

The 2005 Annual Report also states that among the core values of the Police are the belief in accountability, safety and security and the fact that every member of the community deserves the highest level of service. Whether or not the Police are responding to calls for service in an appropriate and timely manner is directly related to public safety and security. Therefore, I find that the information in the database is directly related to a public safety issue.

I also find that disclosure will reveal information about public safety and will also contribute to the public debate about the quality of policing services and their resources. I am not persuaded by the argument of the Police that disclosure of the information in this record may hinder public safety as members of some communities may not be willing to co-operate with the Police if they feel that the level of service that they have received is less than adequate. If there are any concerns about the quality of service provided by the Police in their constituent communities, the public will be better informed about the issues as a result of the disclosure and this will facilitate public debate on the issues.

As noted, the Police have presented evidence regarding their statutory obligations to provide information of the kind requested by the appellant and state that the mandatory reporting established by other legislation strikes the balance between the public's need for information of this nature and the need to ensure that functional and internal police information remains protected.

I do not agree. The information that the Police are required to disclose pursuant to their statutory obligations in its Annual Report and to Statistics Canada is not the same as the information that

is contained in the database. Further, the fact that an institution is required to provide data to other public bodies in a prescribed form does not mean that it is thereby exempt from providing additional data, or even the same data, that may be requested by a member of the public under the *Act*. Similarly, while the reporting obligations may be a factor to consider in evaluating whether or not the disclosure is likely to contribute to the debate on the issue, the obligation to report does not reflect the balance between the right of access to information and the need to protect law enforcement activities. That balance is created by the application of the *Act*.

I am satisfied that the appellant has the means and intends to disseminate the information that is requested. Accordingly, all four criteria for the application of section 45(4)(c) have been met.

Part 2: Fair and Equitable

For a fee waiver to be granted under section 45(4), it must be "fair and equitable" in the circumstances. Previous orders have set out a number of factors to be considered in determining whether a denial of fee waiver is "fair and equitable". These factors are:

- the manner in which the institution responded to the request;
- whether the institution worked constructively with the requester to narrow and/or clarify the request;
- whether the institution provided any records to the requester free of charge;
- whether the requester worked constructively with the institution to narrow the scope of the request;
- whether the request involves a large number of records;
- whether the requester has advanced a compromise solution which would reduce costs; and
- whether the waiver of the fee would shift an unreasonable burden of the cost from the appellant to the institution. [Orders M-166, M-408, PO-1953-F]

The appellant agrees that the Police responded to her request in a timely and appropriate manner and states that some of the information from the database was provided to her free of charge.

Although I am satisfied that a number of factors support the Police position and do not favour a fee waiver, including the factors that have been identified by the appellant, I am also satisfied that the factors that favour waiver should be given greater weight in the circumstances of this appeal. In my opinion, records that contain information of this nature have a significant public safety interest and the appellant should not have to bear the burden of the cost of access. In fact, the information in this record is the kind of information that should be considered for routine dissemination and disclosure by the Police. In these circumstances, I find that to shift the cost of disclosing this record to the Police would not place an unreasonable burden on them.

In arriving at this conclusion, I have taken into account the fact that I have ordered that a number of fields should be severed in their entirety from the database. Similarly, I have taken into account that the Police will not be required to do the line by line review of the record that formed

the basis of their fee estimate. However, I have also taken into account that the Police will be required to produce the database in an electronic format that is accessible by the appellant and that this will require some effort on their part. In the circumstances of this appeal, I have given the two former considerations greater weight than the latter.

I find that it is fair and equitable in the circumstances of this appeal and, particularly in light of the information contained in the requested record, to waive the fee.

ORDER:

1. I uphold the decision of the Police to withhold the information in the database described in this order as the building number (field 2), apartment number (field 3), the street number found in field 5, sector (field 8), 900 codes (field 10), priority (field 11), and zone (field 28).

2. I order the Police to replace the 900 codes that populate field 10 with the plain language versions.

3. I order the Police to disclose to the appellant the information in field 10, as amended in accordance with this order, and all other information not exempted in the order provisions 1 and 2, in Excel format, or any other format that the parties may agree to, by **July 9, 2007**.

4. I order the Police to waive the fee.

Original signed by: May 31, 2007
Brian Beamish
Assistant Commissioner