COURT FILE NOS.: 284/97, 376/97, 5/98, 410/97, 509/97
DATE: July 5, 1999

ONTARIO
SUPERIOR COURT OF JUSTICE
DIVISIONAL COURT

O'LEARY, COO and FERRIER JJ.

IN THE MATTER OF a decision of the Information and Privacy Commissioner made under the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56

B E T W E E N:	
JOHN DUNCANSON and JIM RANKIN Applicants	*Paul B. Schabas and Judy Chan* for the Applicants
- and -	*Joanne Mulcahy* for the Affected Persons
ANITA FINEBERG, Inquiry Officer, METROPOLITAN TORONTO POLICE SERVICES BOARD and METROPOLITAN TORONTO POLICE ASSOCIATION Respondents	*Robin MacKay* for Toronto Police Services Board *Leslie McIntosh* for the Attorney General for Ontario
B E T W E E N:	*William S. Challis and Margaret Drent* for Information and Privacy Commissioner
JOHN DUNCANSON and JIM RANKIN Applicants	
- and -	**HEARD: April 13 and 14, 1999**
DONALD HALE, Inquiry Officer, and METROPOLITAN TORONTO POLICE SERVICES BOARD Respondents	

B E T W E E N:

JOHN DUNCANSON and JIM RANKIN

Applicants

- and -

TOM MITCHINSON, Assistant Commissioner, MARIANNE MILLER, Inquiry Officer, and METROPOLITAN TORONTO POLICE SERVICES BOARD

Respondents

B E T W E E N:

JOHN DUNCANSON and JIM RANKIN

Applicants

- and -

ANITA FINEBERG, Inquiry Officer, and METROPOLITAN TORONTO POLICE SERVICES BOARD

Respondent

B E T W E E N:

JOHN DUNCANSON and JIM RANKIN

Applicants

- and -

DONALD HALE, Inquiry Officer, MINISTRY OF THE ATTORNEY GENERAL and METROPOLITAN TORONTO POLICE ASSOCIATION

Respondents

O'LEARY J.:

[1] The issue on this application for judicial review is whether the court should order:

(a) the disclosure of records kept by the Metropolitan Toronto Police Services Board (the "Police") containing

(i) the names of all police officers employed by the police;

(ii) public complaints made against police officers including the names and ranks of the officers, and the allegations made and the outcome or disposition of the complaints, being information collected in the Public Complaint Bureau's Public Complaint System data base since 1990;

(iii) the docket sheets posted outside the court rooms for trials of all officers charged since 1986 under the *Police Act*, R.S.O. 1990, c. 8 which docket sheets contain the officers' names, rank, badge numbers and the charges laid;

(b) the disclosure of records kept by the Ministry of Attorney General (the "Ministry") of all Criminal Code indictments and informations laid against all police officers employed by the Police who have been charged and prosecuted, as far back as the records have been kept, including the names of the officers, their ranks, the charges, the allegations and the disposition of the cases.

[2] The disclosure of the above records was requested by John Duncanson and Jim Rankin, reporters for the Toronto Star by letters dated November 29, 1996, December 13, 1996 and January 16, 1997. The Police and the Ministry refused the requests. Duncanson and Rankin appealed the refusals to the Information and Privacy Commissioner. The Commissioner upheld the refusals to disclose the records. Duncanson and Rankin ask on this application that the Commissioner's decisions be quashed and that the Court direct that the records be disclosed to Duncanson and Rankin.

[3] For the reasons which follow the Court should not disturb any of the Commissioner's decisions and so the application for judicial review fails. I deal separately with each request for disclosure.

1. Request for disclosure of records containing the names of all police officers.

[4] The decision of the Commissioner being Order M-913 was delivered by Anita Fineberg, Inquiry Officer, on March 20, 1997. That decision reads in part:

> It is the position of the Police supported by [the Metropolitan Toronto Police Association] (the MTPA), that disclosure of the names of the officers are exempt under section 13 of the [Municipal Freedom of Information and Protection of Privacy Act (the Act)] which states:

> A head may refuse to disclose a record whose disclosure could reasonably be expected to seriously threaten the safety or health of an individual.
>
> ...

The Police and the MTPA identify police officers, their families and third parties including friends and neighbours as the individuals whose safety or health could reasonably be expected to be seriously threatened as a result of the disclosure. As far as the manner in which such harm may occur, the Police state as follows:

> A certain number of police officers are assigned at any time to `old clothes' [drug squad, intelligence, morality officers, etc.] or `plain clothes' duties, typified by the detectives in field units and specialized squads [homicide, fraud, hold-up, etc.]. These officers go about their tasks in non-uniform dress precisely because they can operate most efficiently and efficaciously in public where they are not readily identified as police officers.
>
> Should such individuals be easily identifiable as police officers at certain stages of their investigative work, their tasks would be made more difficulty, unwieldy, or sometimes impossible. Interviewing potential witnesses in certain situations could endanger either interviewer or interviewee, for example.

The Police go on to state that these submissions are not limited to intelligence undercover officers only but also to any officers who do not wear uniforms in the performance of their regular duties.

The MTPA submits:

> Undercover officers must and do seriously guard their identities. Uniform officers must do the same for themselves and their families. Their identification could facilitate unwanted, even dangerous, interventions in their lives, facilitate identification of homes where guns may be stored and otherwise endanger them.
>
> ...

The position of the appellant is that the names of the police officers are publicly available in that, as a rule the Police make no secret of

officers' names. The appellant points to the issuance of press releases which contain the names and badge numbers of the officers who have signed off. The appellant notes that the Police regularly provide the media with the names of officers involved in incidents or investigations. He states that this information is not limited to the media and the public may contact the Police switchboard to confirm whether an individual is still a member of the police force and to which division he or she is attached.

Finally, the appellant has provided me with a copy of a page from the Police's Web site which shows the names, positions, telephone and badge numbers of the members of the Sexual Assault squad of the Police.

Based on the public availability of the information described above, the appellant questions how disclosure of only the names of the officers could result in the harms outlined in section 13.

...

... the Police take the position that there are circumstances, as described in their submissions cited previously, where disclosure of the names of officers could reasonably be expected to seriously threaten the safety or health of an officer or his or her family. Conversely, there are situations where such harms do not exist or where the Police have identified in their discretion that there are overriding reasons for the provision of names of officers to the public - for example, in the context of a specific investigation or the publication of the names of the officers of the Sexual Assault Squad. However, when considering the list of all the officers of the force as a whole, which is the subject of this request, they have exercised their discretion in favour of non-disclosure.

I accept the submissions of the Police that identification of police officers could reasonably be expected to make their work more dangerous in many situations. I also accept that there are instances in which such identification could place family members and others at risk.

As Inquiry Officer Higgins noted in Order M-465, in order to find that the section 13 exemption applies, it is not necessary to demonstrate that actual injuries would occur as a result of disclosure. The Police must establish that a serious threat to health or safety could reasonably be expected. Based on the submissions of the Police and the MTPA, I am satisfied that this requirement has been met in the circumstances of this case. Accordingly, I find that section

13 of the Act applies to exempt the information at issue in this appeal from disclosure.

...

The appellant argues that there exists a public interest in the disclosure of the information at issue under section 16 of the Act, which states:

> An exemption from disclosure of a record under sections 7, 9, 10, 11, **13** and 14 does not apply where a compelling public interest in the disclosure of the record clearly outweighs the purpose of the exemption [emphasis added]

The appellant submits that there is a compelling public interest in the dissemination of information about the Police in the form of investigative journalism which clearly outweighs the purpose of the denial of access to individuals' personal information. He indicates that the nature of the requesters is a significant consideration in this case as his clients have a duty to fully inform the public about the activities of public institutions, such as the Police, and the public has a right to be so informed. He states:

> It is our position that this right and corresponding duty create a compelling public interest in the disclosure of information about the activities of one of the most inaccessible public institutions, the Police.
>
> ... Full and frank disclosure will submit the Police to necessary public scrutiny; increase public confidence in the Police and foster open discussion about its activities, its mandate and its internal procedures. Anything less than full and frank disclosure will engender a lack of confidence and mistrust in the institution, a far greater harm than any that might occur as a result of disclosure of the Nominal Roll.

In Order P-1121, Inquiry Officer Holly Big Canoe made the following observations about the application of the "public interest override' contained in section 23 of the provincial Freedom of Information and Protection of Privacy Act, the equivalent of section 16 of the Act. In that case, records had been exempted under section 21 of the provincial legislation. However, in my view, the reasoning is equally applicable to any exemption under the Act. She stated:

> There are two requirements contained in section 23 which must be satisfied in order to invoke the

> application of the so-called "public interest override": there must be a **compelling** public interest in disclosure; and this compelling public interest must **clearly** outweigh the **purpose** of the exemption.
>
> "Compelling" is defined in the Oxford dictionary as "rousing strong interest or attention". In order to find that there is a compelling public interest in disclosure, the information at issue must serve the purpose of informing the citizenry about the activities of their government, adding in some way to the information the public has available to effectively express opinion or to make political choices.
>
> If a compelling public interest is established, it must then be balanced against the purpose of the exemption which has been found to apply. In my view, the balancing involves weighing the relationship of the information against the Act's central purposes of shedding light on the operations of government and protecting the privacy of personal information held by government. Section 23 recognizes that each of the exemptions listed in the section, while serving to protect valid interests, must yield on occasion to the public interest in access to information held by government. An important consideration in this balance is the extent to which denying access to the information is consistent with the purpose of the exemption.

I adopt the approach expressed in Order P-1121 for the purposes of this appeal.

As noted above, the appellant's submissions on the application of section 16 relate to the public interest in disclosure of the record outweighing the purpose of the personal privacy exemption in section 14 of the Act. I have found that the names of the officers are exempt pursuant to section 13 of the Act. The appellant has not indicated how the public interest in disclosure outweighs the purpose of this exemption.

Furthermore, the appellant has failed to explain how the disclosure of all of the names of the officers employed by the Police would result in the public being fully informed about the activities of the Police, its mandate and internal procedures.

> In the circumstances of this appeal, therefore, I am not persuaded that there exists a compelling public interest in the disclosure of the information at issue that clearly outweighs the purpose of the exemption in section 13. Accordingly, I find that section 16 of the Act does not apply in the circumstances of this appeal. The result is that the names of the officers are exempt from disclosure.

[5] It is apparent that Inquiry Officer Fineberg accepted the submissions of the Police and the MTPA that there are circumstances, where disclosure of the names of officers could reasonably be expected to seriously threaten the safety or health of an officer or his or her family or others such as potential witnesses. While there are occasions when such disclosure would not entail such danger or where the Police have decided there is overriding reason for the provision of the names of officers to the public, as has been done with the officers of the Sexual Assault Squad, when considering the list of all the officers of the force, which is the subject of the request for disclosure, the Police are entitled, Fineberg concluded, to make no disclosure.

[6] Inquiry Officer Fineberg also held that the applicants had not indicated how the public interest in disclosure outweighs the need to protect police officers and others from the serious threat to their health and safety that the disclosure would entail.

[7] In my view Inquiry Officer Fineberg's decision is not only reasonable, it is correct.

[8] After order M-913 was released, counsel for Duncanson and Rankin wrote to Inquiry Officer Fineberg on March 26, 1997 in part as follows:

> ... we ask that you reconsider your position in light of new evidence that has recently become available.
>
> We submit that the new evidence demonstrates that the Metropolitan Toronto Police Force (the "Police") are acting in an arbitrary and capricious manner by denying the Appellants access to the names of officers on the Nominal Roll, and that no deference should be shown to the Police discretion in refusing release of the information.
>
> ... the Police freely make public officers names, ranks and even badge numbers, when it suits them to do so. The Metropolitan Police Service recently published its 1996 Annual Report. This report lists the names, ranks and badge numbers of about 1,000 officers, which represent about one quarter of the entire force. A copy of this report is attached as exhibit "A" to this letter.
>
> The information released in the Annual report poses more of a potential risk to the health and safety of police officers than would release of the information sought to our clients.

[9] Inquiry Officer Fineberg asked for more information and submissions. The Police informed her in part as follows:

> ... Historically, the names of officers entitled to long service awards, for example, were not published in any standardized report available to the public.
>
> This decision to incorporate Awards into the newly formatted annual report was made unbeknownst to not only `the Board', but also without consultation with any other institutional units which could have prevented this error involving the rights of approximately 1,000 employees. Unfortunately, the Acting Coordinator of the Freedom of Information and Protection of Privacy Unit did not become aware of the situation until April 1, 1997, too late to apprise the individuals involved with this project of the FOI concerns and repercussions.
>
> ...
>
> Numerous concerns have been raised regarding the publication of the personal information contained in the Awards section of the Professional Standards 1996 Annual Report, and an internal privacy investigation has been initiated concerning the matter. The institution acknowledges that an inadvertent, yet horrendous error has been made, however, such error does not waive the institution's responsibility to protect the rights to privacy of the approximately 4,000 other police officers employed by this Service. The institution's position concerning the application of section 13 remains unchanged from that expressed in our representations dated March 6, 1997.

The MTPA informed Ms. Fineberg in part as follows:

> ... The Association was not aware of the existence of the "Final Report" at the time of the submissions and would not have consented to the release of the information therein. Similar information was not, to our knowledge, provided in earlier reports.
>
> ...
>
> ... The fact that the Institution released the names of some officers can be reasonably expected to seriously threaten the safety or health of individual police officers. Our understanding is that this information was released without the knowledge and consent of the Freedom of information Department at the Metropolitan Toronto Police Service. It was certainly released without the knowledge and consent of the individual officers and the MTPA.

> ... we submit that one of the major concerns of the Police Association is that there is no control over the use which will be made of the list of names, should it be released.

[10] On May 16, 1997 Inquiry Officer Fineberg issued Order M-938. The decision reads in part:

> I find that upon issuing Order M-913, I became functus officio. Based on the foregoing discussion, none of the exceptions to this principle are present in this case. Accordingly, I am without jurisdiction to reopen Order M-913, solely for the purpose of considering the new evidence presented by the appellant. Thus, I deny the appellant's request for reconsideration of Order M-913 and confirm my decision in that order.
>
> I should add that, if I am wrong in my finding that I am functus, the new evidence provided by the appellant would not have persuaded me to alter my decision in any event. The facts and circumstances surrounding the creation and distribution of the Report, as well as the information contained in this document, would not have caused me to conclude that the Police improperly applied the exemption in section 13 of the Act to deny access to the names of all the officers in its employ.

[11] This decision also is in my view not just reasonable but correct. I will now deal with some but not all of the specific attacks made by Duncanson and Rankin on orders M-913 and M-938.

(a) *Breach of Natural Justice - The Failure to Give Reasons*.

[12] On December 31, 1996 by letter to Duncanson and Rankin the Police denied access to the listing of all police officers. The letter reads in part:

> Access is denied to a current listing of all police officers employed by Metropolitan Toronto Police Service pursuant to sub-sections 13, 14(1)(f) and 14(3)(d) of the *Municipal Freedom of Information and Protection of Privacy Act*.

[13] The letter then sets out in full the words of the section and subsections just identified. No other reasons were given for the refusal of access. Section 22(1)(b) of the Act reads in part:

> 22.(1) Notice of refusal to give access to a record or part under section 19 shall set out,
>
> ...
>
> (b) where there is such a record,

> (i) the specific provision of this Act under which access is refused,
>
> (ii) the reason the provision applies to the record ...

[14] Counsel for Duncanson and Rankin submits that because the Police failed to give reasons for refusing to disclose the requested information, the applicants were prejudiced by being required to make submissions to the Inquiry Officer without knowing how according to the Police the provisions of the Act quoted applied to the records. This situation it is said was highly prejudicial and amounted to a denial of natural justice before the Commission and should lead the court to set aside Orders M-913 and M-938.

[15] Inquiry Officer Fineberg dealt with this issue as follows:

> The decision letter issued by the Police stated that access was being denied to the listing of police officers pursuant to sections 13, 14(1)(f) and 14(3)(d) of the Act. The letter went on to note that "... These sections apply because ..." followed by a paragraph setting out the language of these sections.
>
> In my view, the purpose of the inclusion of the above information in a notice of refusal is to put the requester in a position to make a reasonably informed decision on whether to seek a review of the head's decision (Orders 158, P-235 and P-324). In this case, I agree with the appellant that the decision letter of the Police should have provided him with **reasons** for the denial of access. A restatement of the language of the legislation is not sufficient to satisfy the requirement in section 29(1)(b)(ii) of the Act. It does not provide an explanation of why the exemptions claimed by the Police apply to the record. Section 29(1)(b)(i) already requires that the notice contain the provision of the Act under which access is refused.
>
> Notwithstanding the inadequacy of the decision letter, the appellant has exercised his right of appeal and provided extensive representations which I have referred to in my disposition of all the issues relating to the information in this order. In these circumstances, there would be no useful purpose served in requiring the Police to provide a new decision letter to the appellant.

[16] Duncanson and Rankin did not in their notice of appeal sent to the Information and Privacy Commissioner complain about lack of reasons. That would have been the time to enlist the aid of the Commissioner to get reasons. Rather they went ahead with the appeal and raised the lack of reasons only in submissions made on the appeal. That submission, a ten-page letter by their counsel, addresses the claim by the Police that they are entitled to rely on sections 13, 14(1)(f) and 14(3d)(d) of the Act and refuse disclosure.

[17] In that submission letter counsel stated as follows in regard to lack of reasons:

> ... The reason provided to the requester should be sufficient to allow the requester to make an informed decision as to whether to seek review of the head's decision.
>
> The notice of refusal provided by the Police in this case provides no reasons at all. It merely refers to or restates the sections of the Act. It is insufficient to allow our client to make informed decisions and meaningful representations in his appeal. The failure of the Police to comply with this important requirement should weigh heavily against it.

[18] Counsel appears to have conceded to the Inquiry Officer that the purpose of reasons is to allow the requester to make an informed decision whether to appeal. Having appealed and made submissions, it is a little late to complain. Indeed, counsel did not ask for better reasons even when complaining about lack of reasons.

[19] The attack on order M-913, based on lack of reasons by the Police is without merit.

(b) *Section 4(2) Duty of Severance*

Section 4(2) of the Act reads:

> 4.(2) 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.

[20] In his submissions to the Inquiry Officer on March 5, 1997 counsel for the applicants submitted that the Police have "failed to apply the statutory requirement for severance of the Nominal Roll". But at that time his position was that "there is no indication that the Police have made an attempt to reasonably sever personal information from the Nominal Roll in an effort to disclose information responsive to the current request". Counsel was directing his argument to the removal of such particulars as rank and address from the list. He was not suggesting that the Police consider removing some names from the list.

[21] On this application for judicial review it is submitted that "the Police were required to consider whether some of the names could be released even if others were exempt". It is said that the Inquiry Officer recognized that some of the names on the list were not exempt from disclosure. It is my view that the Inquiry Officer made no such finding.

[22] The Police in its submissions to the Inquiry Officer made it quite clear it was not arguing that when approached by someone and questioned an officer on duty should not be required to divulge

his name, badge, number, position and duties. The Police draw a distinction between a police officer's name on an official document or his identity when on duty and the identification of the same person as an officer when not on duty. The Police said:

> Had the requester asked for the names of specific individuals who had been involved in specific actions or recorded certain things on behalf of the Service, obviously our response would have been different and we would probably not have objected to the provision of this information.

[23] The Police recognized there are times when it is essential that the names of officers be released to certain individuals or indeed the public. If someone has a legitimate reason for wanting the name of a particular officer or officers he should have it.

[24] Neither the Police nor Inquiry Officer Fineberg said that when someone asks for the names of all police officers, the Police can go through the list and find certain officers the release of whose names would not pose a risk of danger to them, their families or those including potential witnesses with whom they may later have to deal. Indeed a uniformed officer today, may be a detective or undercover officer tomorrow. The danger the Police and the MTPA envision through the release of names applies to the names of all officers.

[25] In my view the distinction drawn by the Police between occasions when it is perhaps safe and certainly necessary, safe or not, to release the names of officers, and a request for the names of all officers is what the Inquiry Officer was talking about when she used the following words:

> ... Conversely, there are situations where such harms do not exist or where the Police have identified in their discretion that there are overriding reasons for the provision of names of officers to the public - for example, in the context of a specific investigation or the publication of the names of the officers of the Sexual Assault Squad. However, when considering the list of all the officers of the force as a whole, which is the subject of this request, they have exercised their discretion in favour of non-disclosure.

[26] I do not accept that it was open to the Inquiry Officer to find or that she in fact found the Police could have identified some officers on the list whose names could be released without endangering safety.

(c) *The Inquiry Officer should have reconsidered Order M-913*

[27] It is submitted on behalf of the applicants that the Inquiry Officer erred in deciding that the principle of *functus officio* applied to her decision in Order M-913 and that she had no further jurisdiction to consider the fact that names of 1,000 officers had been released in the 1996 Annual Report.

[28] I am inclined to the view that the Inquiry Officer became *functus officio* upon issuing Order M-913, for the very reasons give by her. But it is unnecessary to pursue that point, for she said in her reasons:

> I should add that, if I am wrong in my finding that I am functus, the new evidence provided by the appellant would not have persuaded me to alter my decision in any event. The facts and circumstances surrounding the creation and distribution of the Report, as well as the information contained in this document, would not have caused me to conclude that the Police improperly applied the exemption in section 13 of the Act to deny access to the names of all the officers in its employ.

[29] So she did consider the new evidence, but that did not changer her mind. Once again, in my view she is not only reasonable but correct in so deciding.

2. Request for release of records collected in the Public Complaint Bureau's Public Complaint System data base since 1990 relating to the complaints made by members of the public against police officers, the names and ranks of the officers, the allegations made and the outcome or disposition of the complaints.

[30] In denying the request, the Police stated:

> Upon careful consideration it has been determined that the portion of your request concerning "floppy disk copies of the PCS database" meets the definition of subsections 52(3)(1) and 52(3)(3) of the `Act' and therefore the `Act' does not apply. Access is denied to the requested information. These subsections apply because:
>
> | Sub-Section | Reason |
> |---|---|
> | 52(3) | This Act does not apply to records collected, prepared, maintained or used by or on behalf of an institution in relation to any of the following:

(1) Proceedings or anticipated proceedings before a court, tribunal or other entity relating to labour relations or to the employment of a person by the institution.

(3) Meetings, consultations, discussions or communications, about labour relations or employment-related matters in which the institution has an interest |
>
> The Coordinator is responsible for these decisions.

[31] The police gave no other reason for refusing disclosure.

[32] Duncanson and Rankin appealed the refusal to disclose the records to the Information and Privacy Commissioner but did not at that time complain about lack of reasons by the Police for the refusal.

[33] Two months later as part of his nine-page letter of submissions to the Commissioner, counsel for Duncanson and Rankin complained that the Police had failed to provide reasons for its refusal of access to information contained in the Public Complaints System database. Once again counsel conceded that "the reason provided to the requester should be sufficient to allow the requester to make an informed decision as to whether to seek review of the head's decision". Counsel further stated "the appellants do not consent to any delay in this appeal to permit reasons to be given by the Police". Rather it was counsel's position the failure to give reasons should cause the Commissioner to treat with scepticism any reasons the "Police may now present".

[34] On April 24, 1997 Inquiry Officer Donald Hale issued Order M-931 upholding the decision of the Police not to disclose the records.

[35] Section 52(3) of the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56 reads in part:

> 52.(3) Subject to subsection (4), this act does not apply to records collected, prepared, maintained or used by or on behalf of an institution in relation to any of the following:
>
> 1. Proceedings or anticipated proceedings before a court, tribunal or other entity relating to labour relations or to the employment of a person by the institution
>
> ...
>
> 3. Meetings, consultations, discussions or communications about labour relations or employment-related matters in which the institution has an interest.

The reasons for the decision of Inquiry Officer Hale read in part:

> **Section 52(3)(3)**
>
> In order to fall within the scope of paragraph 3 of section 52(3), the Police must establish that:
>
> 1. the record was collected, prepared, maintained or used by the Police on their behalf; and

2. this collection, preparation, maintenance or usage was in relation to meetings, consultations, discussions or communications; and

3. these meetings, consultations, discussions or communications are about labour relations or employment-related matters in which the Police have an interest.

Requirements 1 and 2

The Police state that under section 76(1) of Part VI of the Police Services Act (the PSA), the Chief of Police is obliged to establish and maintain a Public Complaints Investigation Bureau within the police service to investigate public complaints against police officers. During the course of these investigations, information is gathered concerning a particular complaint and recorded and stored in various formats, including the PCS database.

The Police submit that the information contained in the PCS database is collected, prepared, maintained and used by the Police in relation to the preparation of a report for the Chief of Police who will then make a decision as to the disposition of the complaint under section 90(3) of the PSA. In this way, the Police submit that the investigating officers communicate the results of their investigation into a public complaint to the Chief of Police by way of a final report.

...

In my view, the information contained in the PCS database was collected, prepared, maintained and/or used by the investigating police officer **in relation to** the preparation of a final report on the results of their investigation, which they then communicated to the Chief of Police. Therefore, I find that the first and second requirements of section 52(3)3 have been established.

Requirement 3

...

Investigations under Part VI of the PSA are conducted by the Public Complaints Investigation Bureau within a police service. Such investigations are begun following the receipt of a complaint from a member of the public against a police officer. A number of consequences may flow from an adverse finding against an officer by the Chief of Police under section 90(3) of the PSA. For example, a Board of Inquiry may be convened pursuant to section 60 of the PSA, which may impose sanctions, including discipline, dismissal,

suspension, forfeiture of pay or time against the officer under investigation.

...

... I have no difficulty in finding that records which were prepared, maintained, collected or used in relation to communications about an investigation under Part VI of the PSA, including information used by investigating officers ... are about employment-related matters ...

I must now determine if these investigations are employment-related matters "in which the Police have an interest".

...

The appellants argue that while the matters dealt with in investigations conducted under Part VI of the PSA may affect the legal rights of the officers charged, the investigations, and any subsequent proceedings do not impact on the legal rights of the Police in any way. For this reason, the appellants submit that the police do not "have an interest" in the matters which are addressed through the Part VI proceedings.

...

Sections 76(1) and (2) of the PSA requires that every Chief of Police establish and maintain a public complaints investigation bureau and that it be adequately staffed to perform its duties effectively. Sections 78 and 79 of the PSA oblige the Police to provide certain notices to the complainant and the officer who is the subject of the complaint at the commencement of an investigation. Similar reporting is required by section 86(2) on a monthly basis as an investigation is under way.

In my view, Part VI of the PSA requires that a number of other statutory obligations be met by a police service, generally through its Chief of Police. I find, therefore, that Part VI investigations are matters in which the Police have certain legal obligations and that they have, accordingly, an interest in them within the meaning of section 52(3)3.

Therefore, the third requirement of section 52(3)3 has also been established.

By way of summary, I find that the information contained in the Public Complaints System was collected, prepared, maintained and/or used by the Police in relation to communications about employment-related matters in which the Police have an interest. All of the requirements of section 52(3)3 of the Act have thereby been

> established by the Police. None of the exceptions contained in section 52(4) are present in the circumstances of this appeal, and I find that the information falls within the parameters of this section, and is therefore, excluded from the scope of the Act.
>
> ...
>
> **ORDER:**
>
> I uphold the decision of the Police.

[36] In my view Inquiry Officer Hale was eminently reasonable in both his reasons and his decision and there is no reason to elaborate. Further I agree with his disposition of the complaint that the Police did not give reasons why the records fell within s. 52. He stated:

> ... the appellants did not appear to have suffered any prejudice in their ability to evaluate whether to appeal the decision to deny access or to make adequate representations. As such, I also find that no useful purpose would be served by ordering the Police to provide the appellants with another decision letter in this appeal.

3. Request for the release of docket sheets that had been posted outside the court room for trials of all officers charged since 1986 under the Police Act, which docket sheets contained the names of the officers charged, their ranks, badge numbers and the charged laid.

[37] In his decision of December 22, 1997 being Order M-1053 Assistant Commissioner Tom Mitchinson stated in part as follows:

> The Metropolitan Toronto Police Services Board (the Police) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to dockets listing police officers charged under the Police Services Act (the PSA) from 1986 to 1996. These dockets, posted daily outside the Trials Office in Police Headquarters, contain the name, rank, badge number and alleged offences of officers scheduled to appear that day before the Police Discipline Tribunal. The request was made by two journalists.
>
> The Police denied access to the responsive records, claiming that they fell under section 52(3), and were therefore excluded from the jurisdiction of the Act. This decision was appealed and disposed of in Order M-936, where former Inquiry Officer Anita Fineberg found that section 52(3) did not apply and ordered the Police to issue an access decision to the appellants.
>
> Before issuing a decision, the Police notified 53 police officers (the affected persons) whose interests might be affected by disclosure of

the records, pursuant to section 21 of the Act. One affected person consented to disclosure of information relating to him, and 52 objected to disclosure. After considering all submissions received from the affected persons, the Police granted access to the information relating to the consenting affected person, and denied access to the remaining responsive records, claiming the following exemption:

- invasion of privacy - section 14(1)

The Police also advised the appellants that dockets have only been prepared since late 1993 or early 1994, therefore no responsive records exist from 1986 to that point; and that any responsive records prior to January 1, 1997 have been destroyed. The Police agreed to extend the time period covered by the request to the date of their decision, and identified 42 Police Discipline Tribunal dockets covering the period January 8, 1997 to May 2, 1997. The affected persons notified by the Police are those officers listed on these 1997 records.

The appellants appealed the decision to deny access, and claimed that there was an overriding public interest in the disclosure of the records. The appellants later objected to the Police destroying responsive records, and claimed that more responsive records should exist. I have added these issues to the scope of this inquiry.

...

... section [14(1)(f)] reads as follows:

> A head shall refuse to disclose personal information to any person other than the individual to whom the information relates except,
>
> > If the disclosure does not constitute an unjustified invasion of personal privacy.

Sections 14(2) and (3) of the Act provide guidance in determining whether disclosure would result in an unjustified invasion of personal privacy. Section 14(2) provides some criteria for the head to consider in making this determination.

...

The Police rely on sections 14(2)(e), (f) and (i) as factors favouring non-disclosure.

The appellants raise section 14(2)(a) in support of their position that the records should be released. They also point out that the records were posted publicly and relate to information about hearings that are open to the public. This is not a factor which appears in section 14(2), but may be a relevant consideration favouring disclosure.

These sections read as follows:

> A head, in determining whether a disclosure of personal information constitutes an unjustified invasion of personal privacy, shall consider all the relevant circumstances, including whether,
>
> (a) the disclosure is desirable for the purpose of subjecting the activities of the institution to public scrutiny;
>
> (e) the individual to whom the information relates will be exposed unfairly to pecuniary or other harm;
>
> (f) the personal information is highly sensitive;
>
> (i) the disclosure may unfairly damage the reputation of any person referred to in the records.

14(2)(e)

The Police and the affected persons submit that disclosure of the records would perpetuate the publicity of the disciplinary matters, and that they are entitled to closure. They add that, because the appellants are journalists, there is no certainty about how or when the information would be used, and that the ongoing and potentially never-ending wait would be stressful and unfair. Finally, they argue that disclosure of their identities would interfere with their ability to transfer to a specialized unit or undercover work.

The appellants argue that there is no evidence that the police officers identified on the dockets will be exposed to pecuniary or other harm, let alone unfairly exposed. They point out that any harm which may result to these officers "would be due to decisions of the Tribunal, and not by disclosure to a member of the public".

...

... In my view, once the affected parties have been through the appropriate proceedings in responding to a complaint under the PSA, they are entitled to consider the matter as closed. For the same reasons stated in Order P-1167, I find that section 14(2)(e) is a relevant consideration in the circumstances of this appeal, and is a factor favouring privacy protection.

14(2)(f)

The Police and the affected persons submit that information relating to allegations of professional misconduct is highly sensitive. They support this position by pointing to the high stress levels experienced by many affected persons stemming from past prosecutions. The Police also refer to previous orders of this office where information relating to criminal history and allegations of improper professional conduct were found to be "highly sensitive".

...

In order to qualify as "highly sensitive", the Police must establish that release of the information would cause excessive personal distress to the affected persons (Order P-434). It is clear that the records contain information relating to allegations of improper professional conduct against the affected parties. While I accept the appellant's position that the records were displayed publicly at a specific point in time, this does not mean that the information contained in the records is not highly sensitive. I accept that disclosure of allegations of professional misconduct would cause excessive personal stress to the officers involved, and that this information is properly characterized as highly sensitive (Orders P-658, P-1055, P-1117, P-1278 and P-1427).

Therefore, I find that section 14(2)(f) is a relevant consideration in the circumstances of this appeal, and is another factor favouring privacy protection.

14(2)(i)

The Police and affected persons submit that disclosure of the records would impact on the professional and personal reputations of the affected persons, in particular those who were eventually found not guilty of misconduct. They further argue that the records do not contain sufficient details and could be misleading as to the circumstances surrounding each matter, potentially resulting in unfair damage to the reputation of the affected persons.

...

In my view, given the limited information contained in the records, it is reasonable to expect that the disclosure of information which identifies these individuals by name may unfairly damage their reputations, particularly those who were ultimately acquitted. Therefore, I find that section 14(2)(i) is a relevant consideration in the circumstances of this appeal.

14(2)(a)/previously publicly available

The Police submit that section 14(2)(a) is not relevant. In their view, there is an adequate level of public scrutiny of the activities of the Police through a number of avenues, including the media's attendance at Police Discipline Tribunal hearings. The public is aware through the media that the Police have a disciplinary hearings process and, in the opinion of the Police, the release of the docket sheets "do[es] not subject the activities of the institution to scrutiny, but only the activities of the individual police officers". The Police also point out that there is nothing to indicate that the public has demanded scrutiny in the form of the docket sheets, and although the appellants are journalists, it does not automatically follow that the request is made on behalf of the public. The Police submit that the fact that the appellants have requested access to the records in bulk is an indication that there is no public demand for scrutiny of these records, "but that the public will have access to this information only when the requester chooses to release it".

...

In my view, section 14(2))(a) is not a relevant consideration in the circumstances of this appeal. In Order P-347, I made the following statements regarding the application of this section, which are equally applicable in this appeal:

> In my view, in order for [section 14(2)(a)] to be a relevant consideration, there must be a public demand for scrutiny of the Government or its agencies, not one person's subjective opinion that scrutiny is necessary. No such public demand has been established in this case and, accordingly, I find that [section 14(2)(a)] is not a relevant consideration in the circumstances of this appeal.

In my view, the public hearings process under the PSA is established for the very purpose of subjecting police services to public scrutiny. The appellants have provided insufficient evidence to establish that additional public scrutiny is desirable in the circumstances. I am also not satisfied that disclosure of this information would contribute in

any meaningful way to the public's understanding of the activities of government.

...

Balancing the considerations of the one factor favouring the disclosure of the records against the three factors favouring the protection of the privacy of the affected persons, I find the factors weighing in favour of privacy protection are more compelling. Accordingly, I find that the disclosure of the records would result in an unjustified invasion of the personal privacy of the affected persons, and that the records are exempt under section 14(1) of the Act.

COMPELLING PUBLIC INTEREST

Section 16 of the Act reads as follows:

> 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. (emphasis added).

In order for section 16 to apply, two requirements must be met. First, there must exist a compelling public interest in the disclosure of the records. Second, this interest must clearly outweigh the purpose of the personal information exemption.

...

... the records were, at the time the charges were heard, made available to the public, through the posting of the dockets outside the hearing room. In addition, the Police and the appellants both point out that the media is able to attend these hearings and does so quite frequently. Therefore, having considered the representations of the appellants, including statements submitted by both appellants and materials referred to me by the appellants from previous appeals, I find that they have not established that the **additional** disclosure of the records is necessary in order to address public interest concerns. In my view, the public interest in disclosure of these records is adequately and properly served by the practice of posting the docket sheets outside the hearing room on the date of the hearings and the ability of the media to attend and report on these hearings.

...

ORDER:

I uphold the decision of the Police to deny access to the records.

[38] The applicants submit that Assistant Commissioner Mitchinson's interpretation and application of the privacy interests in s. 14(2) of the Act and of the public interest considerations in s. 16 of the Act is patently unreasonable. In my view they are reasonable and so cannot be interfered with on this application for judicial review.

[39] Since the Assistant Commissioner has ruled that the requested docket sheets need not be produced, there is no point in pursuing the argument of the applicants that the Police did not make a reasonable search for the records and that the Police should have been ordered to reconstruct the docket sheets destroyed after the request for disclosure was received.

[40] I agree with the Assistant Commissioner that the applicants were provided with sufficient information as to why the Police refused disclosure to enable them to address the issues on the appeal. There was then no denial of natural justice.

[41] The applicants raise two further arguments:

(a) In Order M-936, Inquiry Officer Fineberg erred by failing to order the Police to release the responsive records, after finding that the Police had failed to meet the test and onus set out in ss. 52(3) and (4) of the Act, the sole ground upon which the Police relied for refusing the request.

(b) Inquiry Officer Miller lost jurisdiction when she fettered her discretion and granted the police an additional period of time to raise exemptions.

[42] In dealing with argument (b) Inquiry Officer Miller said in her letter to counsel for the applicants on August 28, 1997:

> In accordance with administrative law principles, and similar to other tribunals, the IPC has instituted procedures to control its processes. The IPC has adopted a policy which allows an institution 35 days from the date an appeal is confirmed to raise any new discretionary exemptions the institution did not claim in its original decision letter. The objective of this policy is to maintain the integrity of the appeals process by ensuring identification of discretionary exemptions early in the process. That policy is reflected in the Confirmation of Appeal notice sent to the institution and the appellant by the IPC when an appeal from the institution's decision has been received. That notice specifies a date by which any new discretionary exemptions must be claimed.
>
> The IPC's adoption and application of its "35 day" policy was upheld by the Ontario Court (General Division) Divisional Court in *Ontario (Ministry of Consumer and Commercial Relations) v. Fineberg* (21

> December 1995), Toronto Doc. 110/95, leave to appeal refused [1996] O.J. No. 1838 (C.A.).
>
> Notwithstanding this policy, the IPC will consider the circumstances of each case and may exercise its discretion to depart from the policy in appropriate cases.
>
> ...
>
> Your reason for making this request appears to be based on the fact that your request was made to the Police some months ago. I have reviewed your letters, the file in this matter, as well as the circumstances surrounding the issuance of Order M-936. I find nothing in my review of the history of this matter that would lead me to conclude that this is an appropriate case to deviate from the IPC's 35 day policy.

[43] In my view those words are a complete answer to not only argument (b), but argument (a) as well. Both arguments are an attack on the procedural processes of the Commission. Those procedures did not prevent the applicants from pursuing by appeal to the Commission their request for disclosure, nor from making full argument on the appeal. There was nothing so urgent about the request for information that required the ordinary procedures and time limits to be altered. The process followed by the Commissioner was not unfair to the applicants.

(4) The request for disclosure of records kept by the Ministry of the Attorney General (the Ministry) of all Criminal Code indictments and informations laid against all police officers employed by the Police, as far back as the records have been kept, including the names of the officers, their ranks, the allegations and the disposition of the cases.

[44] Order P-1415 issued by Inquiry Officer Donald Hale June 25, 1997 reads in part:

> The Ministry of the Attorney General (the Ministry) received a request under the Freedom of Information and Protection of Privacy Act (the Act). The requesters, reporters for a Toronto newspaper, sought access to information held by the Ministry's Special Investigations Branch, Crown Law Office - Criminal Division with respect to criminal charges laid against police officers employed by the Metropolitan Toronto Police Services Board (the Police). The Ministry located 64 documents, known as "Informations" or "Indictments", in its Crown Law Office - Criminal Division which relate to criminal proceedings taken against Metropolitan Toronto police officers between 1990 and the date of the request. It also created a 38-page summary of the details, including the name of the offender and victim, the charges, the circumstances surrounding the offence and the disposition of the charges, all of which was contained in the documents.

Access to some of the information in each of these documents was granted to the requesters. However, access to the name of the police officer charged, the name of the victim, as well as any information which may identify either individual was withheld. The Ministry claimed the application of section 21(1) of the Act (invasion of privacy) to exempt this information from disclosure. The requesters, now the appellants, appealed the Ministry's decision, arguing that there exists a public interest in the disclosure of information relating to police wrong-doing.

During the mediation of the appeal, the appellants indicated that they no longer seek access to the 38-page summary prepared by the Ministry, but continue to seek access to the undisclosed portions of the documents.

...

... The decision letter provided by the Ministry does not explicitly state the reasons why access to the information was denied. It does, however, make reference to the sections of the Act which address the types of information that are considered to be "personal information" for the purposes of the Act. I also note that the appellants do not appear to have suffered any prejudice in their ability to evaluate whether to appeal the decision to deny access or to make adequate representations. As such, I find once again that no useful purpose would be served by ordering the Ministry to provide the appellants with another decision letter in this appeal. I urge the Ministry to more carefully comply with its obligations to requesters under section 29(1)(b) in the future.

...

The provisions of section 21(2) which are referred to above state:

> A head, in determining whether a disclosure of personal information constitutes an unjustified invasion of personal privacy, shall consider all the relevant circumstances including whether,
>
> (a) the disclosure is desirable for the purpose of subjecting the activities of the Government of Ontario and its agencies to public scrutiny;
>
> (f) the personal information is highly sensitive;
>
> (i) the disclosure may unfairly damage the reputation of any person referred to in the record.

I have reviewed the submissions received from the parties and the records at issue in this appeal and have come to the following conclusions:

1. The consideration in section 21(2)(a) is not applicable in the circumstances of this appeal. In my view, the disclosure of the information which remains at issue would not further the purpose of subjecting the activities of the Ministry or of its agencies to public scrutiny. The portions of the records which have already been disclosed demonstrate the extent of the Ministry's efforts to protect the public from criminal conduct by police officers. In my view, the disclosure of the personal information of those police officers and victims is not desirable for the purpose of subjecting the activities of the Ministry to public scrutiny as contemplated by this section.

2. For similar reasons, I find that it cannot be said that the disclosure of the remaining information contained in the records could be desirable for ensuring public confidence in the integrity of the Ministry or its agencies. In my view, the disclosure of the remaining portions of the records containing only the personal information of the police officers and victims would not serve to ensure public confidence in the Ministry and its activities and agencies.

3. I find that the information contained in the records was, at the time the charges were laid, made available to the media, and thereby the public, through either the Police Public Complaints Bureau or its Internal Affairs office. In addition, each of the documents sought by the appellants is also publicly available in a Metropolitan Toronto-area court facility, though not compiled in the same way as the Police have done. I find that this is a significant factor weighing in favour of the disclosure of the requested information.

4. The information withheld from the records is highly sensitive within the meaning of section 21(2)(f). The records include information about criminal convictions of some of the individuals named therein. Previous orders of the Commissioner's office have held that information relating to an individual's criminal record may properly be described as "highly sensitive" within the meaning of section 21(2)(f) (Orders M-68 and M-222).

5. Similarly, many of the records contain information about police officers who were charged, but ultimately acquitted, of

> criminal offences. In my view, it is reasonable to expect that the disclosure of information which identifies these individuals by name may unfairly damage their reputations. As such, I find that the consideration listed in section 21(2)(i) applies to the personal information in the records at issue.
>
> 6. Balancing the considerations favouring the disclosure of the withheld information against the factors favouring the protection of the privacy of the police officers, victims and other individuals, I find the factors weighing in favour of privacy protection to be more compelling. Accordingly, I find that the disclosure of the remaining personal information contained in the records would result in an unjustified invasion of the personal privacy of the police officers, victims and other individuals named in them. The information is, therefore, exempt under section 21(1) and should not be disclosed to the appellants.
>
> **ORDER:**
>
> I uphold the Ministry's decision.

[45] The applicants attack decision P-1415 on four grounds:

1. *The failure of the Ministry to provide adequate reasons for non-disclosure was a breach of natural justice not adequately considered by the Inquiry Officer.*

[46] The inquiry Officer did recognize that the Ministry had not provided reasons for refusing disclosure but noting that the appellants do not appear to have suffered any prejudice in their ability to decide whether to appeal the decision to deny access or to make adequate representations on the appeal, concluded that no useful purpose would be served by ordering the Ministry to provide the appellants with another decision letter.

[47] Indeed in his letter to the Commissioner of May 27, 1997 counsel for Duncanson and Rankin stated: "Our clients ... do not wish to delay the process further by waiting for proper reasons from the Ministry. To do so would cause further delay to what should be an expeditious process, and would reward institutions which flaunt requirements of the Act."

[48] It appears then that the applicants did not suffer a denial of natural justice or if there was some minor breach of natural justice, they asked that the appeal go ahead without the reasons. The applicants cannot now say the Inquiry Officer should have penalized the Ministry and the persons whose personal information was at stake, by ordering disclosure because reasons had not been given by the Ministry. If the reasons were important to them the applicants should have asked that the Inquiry Officer request them.

[49] In my opinion there is no substance in this ground of complaint.

2. *Inquiry Officer Hale's interpretation and application of the definition of "personal information" in s. 2(1) is patently unreasonable.*

[50] Section. 2(1) reads in part: "personal information" means recorded information about an identifiable individual including ... (b) information relating to the ... criminal ... history of the individual."

[51] In light of that definition of the meaning of "personal information" it was reasonable for the Inquiry officer to hold that the indictments and informations here in question disclose personal information about the officers or, putting it another way, that releasing the names of the officers along with the charges, would be releasing personal information.

[52] Indeed counsel for the applicants seems to have conceded as much in his letter of May 27, 1997 to the Commission when he said: "We agree that, given the extraordinarily broad definition of "personal information" in the Act, technically the records requested in the case are personal information..."

This argument is then without substance.

3. *Inquiry Officer Hales' interpretation and application of the privacy interests in s. 21(2) of the Act is patently unreasonable*

[53] Section 21(2) of the Act reads in part:

> 21.(2) A head, in determining whether a disclosure of personal information constitutes an unjustified invasion of personal privacy, shall consider all the relevant circumstances, including whether,
>
> (a) the disclosure is desirable for the purpose of subjecting the activities of the Government of Ontario and its agencies to public scrutiny;
>
> ...
>
> (f) the personal information is highly sensitive;
>
> ...
>
> (i) the disclosure may unfairly damage the reputation of any person referred to in the record.

[54] In my view it was not unreasonable for the Inquiry Officer to make any of the following findings:

> (i) that the names of the police officers who had been charged would not further the purpose of subjecting the activities of the Ministry or of its agencies to public scrutiny, within the meaning of s. 21(2)(a) because the portions of the information which have already been disclosed demonstrate the extent of the

> Ministry's efforts to protect the public from criminal conduct by police officers;
>
> (ii) that the names of individuals who have been charged is highly sensitive within the meaning of s. 21(2)
>
> (iii) that since many of the indictments and informations contain information about officers charged but ultimately acquitted, and since the Ministry's copy of the indictment and information usually is not completed at the end of the case and so may not show the acquittal, disclosure of information which identifies the officers may unfairly damage their reputations.

4. *Inquiry Officer Hale's failure to consider the compelling public interest in disclosure of the records pursuant to s. 23 of the Act is potentially unreasonable.*

[55] Section 23 of the Act reads:

> 23. An exemption from disclosure of a record under sections 13, 15, 17, 18, 20 and 21 does not apply where a compelling public interest in the disclosure of the record clearly outweighs the purpose of the exemption.

[56] The compelling public interest the applicants say entitles them to this record, is their intention to use the records to put the Police under public scrutiny. Because the Inquiry Officer did not refer to s. 23, the applicants say he did not consider it.

[57] But the inquiry Officer did consider s. 21(2)(a) which directed him to consider whether "the disclosure is desirable for the purpose of subjecting ... the government ... and its agencies to public scrutiny". He concluded the disclosure was not desirable for that purpose. *A fortiori* the disclosure does not outweigh an unjustified invasion of personal privacy. The Inquiry Officer determined the s. 23 issue without referring to it.

[58] For these reasons I would dismiss the application for judicial review without costs.

O'LEARY J.
I agree. — COO J.
I agree. — FERRIER J.

Released: July 5, 1999

COURT FILE NOS.: 284/97, 376/97, 5/98, 410/97, 509/97
DATE: July 5, 1999

ONTARIO
SUPERIOR COURT OF JUSTICE
DIVISIONAL COURT
(O'LEARY, COO and FERRIER JJ.)

IN THE MATTER OF a decision of the Information and Privacy Commissioner made under the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56

B E T W E E N:

JOHN DUNCANSON and JIM RANKIN

Applicants

- and -

ANITA FINEBERG, Inquiry Officer, METROPOLITAN TORONTO POLICE SERVICES BOARD and METROPOLITAN TORONTO POLICE ASSOCIATION

Respondents

B E T W E E N:

JOHN DUNCANSON and JIM RANKIN

Applicants

- and -

DONALD HALE, Inquiry Officer, and METROPOLITAN TORONTO POLICE SERVICES BOARD

Respondents

B E T W E E N:

JOHN DUNCANSON and JIM RANKIN

Applicants

- and -

TOM MITCHINSON, Assistant Commissioner, MARIANNE MILLER, Inquiry Officer, and METROPOLITAN TORONTO POLICE SERVICES BOARD

Respondents

B E T W E E N:

JOHN DUNCANSON and JIM RANKIN

Applicants

- and -

ANITA FINEBERG, Inquiry Officer, and METROPOLITAN TORONTO POLICE SERVICES BOARD

Respondents

B E T W E E N:

JOHN DUNCANSON and JIM RANKIN

Applicants

- and -

DONALD HALE, Inquiry Officer, MINISTRY OF THE ATTORNEY GENERAL and METROPOLITAN TORONTO POLICE ASSOCIATION

Respondents

REASONS FOR JUDGMENT

O'LEARY J.
Released: July 5, 1999