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

ORDER MO-1341

Appeal MA-990257-1

Hamilton-Wentworth Regional Police Services Board

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NATURE OF THE APPEAL:

The Hamilton-Wentworth Regional Police Services Board (the Police) received a request from a former police officer under the Municipal Freedom of Information and Protection of Privacy Act (the Act). The request was for access to all information in the police files pertaining to the requester including a copy of every occurrence where his name is mentioned. His request includes access to specific records as described in his letter. The requester also provided the Police with his full name, date of birth and previous addresses.

The Police located a number of responsive records and granted partial access to them. Access was denied to the remainder of the information pursuant to the following sections of the Act:

- discretion to refuse requester's own information/law enforcement - section 38(a) in conjunction with sections 8(2)(a) and 8(2)(c);

- invasion of privacy - section 38(b) with reference to the factors and presumptions in sections 14(2)(e), (f), (g), (h) and (i) and 14(3)(a), (b), (d) and (g).

The Police advised the requester that one of the records (a report) relates to a deceased person and that section 54(a) of the Act could apply if the requester is the executor or administrator of the deceased's estate.

The Police also denied access to two 1974 reports stored on microfilm on the basis that they cannot make an access decision because the reports are illegible.

The requester (now the appellant) appealed the decision to grant partial access to the records.

During the mediation stage of the appeal, the appellant wrote to the Mediator stating that he believes that more responsive records should exist with respect to seven specifically identified incidents. The Mediator determined that records pertaining to five of the incidents have been located but access was denied by the Police, either in whole or in part, and these records are at issue in this appeal. However, the Mediator sent the appellant's letter to the Freedom of Information and Privacy Co-ordinator (the Co-ordinator) for the Police and asked them to conduct a further search for records relating to two incidents which occurred in 1984 or 1985 and in the summer of 1989.

The Police advised the Mediator that a further search was conducted and no records were located for these two incidents. The appellant does not believe that there are no records pertaining to these two incidents and he wishes to pursue this matter. Consequently, one of the issues in the appeal is whether the search conducted by the Police for records pertaining to these two occurrences was reasonable.

The appellant told the Mediator that he was a police officer from approximately 1967 to 1980. He clarified that he is not pursuing access to every occurrence where his name is mentioned prior to 1974. Rather, he indicated that he is seeking access to all occurrence reports in which he was involved, whether as the responding officer or otherwise, after 1974.

Since the records do not appear to contain all of the occurrences to which the requester responded as an officer after 1974, the Mediator contacted the Co-ordinator, who subsequently advised the Mediator that a search for all such records would take some time as it would be extensive and it would probably involve a substantial fee. After the Mediator communicated this information to the appellant, he indicated that he is not pursuing the appeal to obtain access to these records.

Also during mediation, the appellant indicated that he is not seeking access to the personal information of other individuals such as their names, addresses or telephone numbers etc. identified in the records. Therefore, this information is not at issue.

The appellant stated further that he is not pursuing access to the two illegible occurrence reports referred to in the decision letter issued by the Police.

Finally, the appellant has advised that he is not at this time an administrator of the estate of the individual who died in 1975. Accordingly, section 54(a) is not an issue in this appeal.

Further mediation was not possible and this appeal was moved into the inquiry stage. I decided to seek representations from the Police initially. The Police submitted representations in response. After reviewing these representations, I decided to seek representations from the appellant. I attached the non-confidential portions of the Police's representations to the Notice of Inquiry which I sent to the appellant. The appellant was asked to review the Police's representations and to refer to them in responding to the issues in this appeal, where appropriate.

The issues in this appeal are complex and there appeared to be a number of unresolved matters which may possibly not require adjudication. In the Notice of Inquiry which I sent to the Police, I raised these issues and asked the Police to respond to them, which they did. In the Notice of Inquiry that I sent to the appellant, I asked him to indicate in his representations whether any of the issues had been resolved to his satisfaction based on the submissions of the Police.

The appellant submitted representations in response to the Notice. In his representations, he indicated that he is no longer pursuing access to a number of records. He also indicated that he had certain concerns but suggested that the receipt of more information about them would resolve the issue. I have set out the particulars of his representations in this regard below under the heading "Preliminary Matters".

PRELIMINARY MATTERS:

ISSUES SETTLED DURING ADJUDICATION

Illegible pages

During mediation, the Mediator identified a number of pages which are illegible. This information was provided to the Police and they were asked to send better copies back to this office. The records were identified by page number, description and date. In reviewing the records, I also identified a number of additional pages which I am not sufficiently able to read in order to determine their content and whether the exemptions claimed apply to them. I set out all of the illegible pages in the Notice of Inquiry that was sent to the Police. The Police were asked to provide legible copies of these pages along with their representations.
The Police responded and explained why the copies were illegible. The Police also indicated that they had made several attempts to produce better quality copies but because of the nature of the originals this was not possible.

In reviewing the representations of the Police on this issue, the appellant stated:

> ... there are 26 pages of illegible reports and that there are a large number of occurrence reports [involving the appellant after 1974] that would have to be manually searched. Illegible reports are of no use to the requester and therefore we are not pursuing access to these reports. Given that the number of occurrence reports that would be provided we have some concerns about the utility of receiving these reports and we are therefore not going to pursue this access.

As a result, pages 59, 66, 69, 73, 74, 75, 82, 83, 84, 112, 113, 114, 117, 127, 171, 184, 190, 240, 248, 249, 250, 251, 253 and 254 are no longer at issue in this appeal. It appears that pages 111 and 255 which were not at issue to begin with were inadvertently included in this group of records. Therefore, the number of illegible records consists of 24 pages rather than 26.

With respect to the post-1974 occurrence reports, the appellant appears to be confirming his agreement during mediation not to pursue these records.

The 1989 incident

In their representations on the reasonableness of search, the Police explained how they conducted their search for responsive records. In essence, they indicated that they conducted a search under the appellant's name in the Police Service Records Management System. The Police stated as well that:

> It is impossible to find any report with the information provided of 2 men being assaulted and taken to hospital without the names of the men. There would have to be a manual search on microfilm of all the reports for the summer of 1989 ... Each report (if legible)

> would have to be viewed to ascertain the name of the investigating officer from the bottom of the report ...

In responding to these representations, the appellant stated:

> The police force indicates that they searched their records but were unable to find any reports concerning this. There is some indication that the police force feels that [the appellant] was the arresting officer in this case. He was not; he would have been the suspect in this case. **We would like confirmation that a search was made for [the appellant] as a suspect and if there is a record, we would like it to be released to us.** [my emphasis]

After reviewing the representations of the Police on this issue I agreed that the extent of their search was not clear. I therefore asked the Police whether they searched for records relating to the appellant as a suspect. The Police indicated that they searched their records for any incident involving the appellant during the specified time period. In doing so, the Police stated that they searched under his name, using two different spellings which had previously been provided to them by the appellant. The Police noted that, by using this method of search, any record in the database or in their old index card system which contained his name as complainant, suspect, witness or in any other capacity other than as arresting officer would be identified. The Police confirmed that no record was located for this time period.

In response to the appellant's concerns, the Police have "confirmed" that their search included any record in which the appellant was involved in any capacity other than as a police officer. Accordingly, I am satisfied that this issue no longer requires further adjudication.

Other records which are no longer at issue

The appellant states:

> The police force has made specific submissions with respect to the police investigation regarding the attempted abduction charge and with respect to the suicide. We have obtained sufficient information regarding the abduction and will not be pursing further access.

The appellant notes, however, that he is still pursuing access to records relating to a suicide.

As a result, pages 51 to 87 which concern the investigation into an attempted abduction (and specifically referred to by the Police in their representations) are no longer at issue.

RECORDS:

There are 255 pages of responsive records in this appeal. The appellant was given full access to pages 9, 11, 16, 17, 18, 20, 22, 87, 88, 89, 102, 111 and 183. He was given partial access to another 44 pages. Of these, the only information which has been withheld from pages 10, 23, 39, 40, 51, 80, 86, 103, 109, 110, 150, 182, 185, 186, 189 and 255 is personal identifiers such as name, address, telephone numbers and other similar identifying information. Since the appellant has indicated that he is not interested in pursuing this information, these pages are not at issue.

In addition, because the appellant is no longer pursuing access to illegible records, pages 59, 66, 69, 73, 74, 75, 82, 83, 84, 112, 113, 114, 117, 127, 171, 184, 190, 240, 248, 249, 250, 251, 253 and 254 are no longer at issue.

Finally, the appellant has agreed to no longer pursue access to pages 51 to 87 (36 pages). Eleven of these pages have been identified in the description of records discussion above as being no longer at issue. In the end, an additional 25 pages of records relating to the attempted abduction investigation are not at issue.

Consequently, 177 pages remain at issue in whole or in part. They consist mainly of occurrence reports, and supplementary occurrence reports. There are also a Forensic Science Report, some correspondence, and some photographs.

The Mediator has numbered the pages of records originally at issue in this appeal from 1 to 255 according to the ordering in which they were sent to this office. I will refer to this numbering throughout this inquiry.

DISCUSSION:

REASONABLENESS OF SEARCH

Where a requester provides sufficient details about the records which he is seeking and the Police indicate that such records do not exist, it is my responsibility to ensure that the Police have made a reasonable search to identify any records which are responsive to the request. The Act does not require the Police to prove with absolute certainty that the requested records do not exist. However, in my view, in order to properly discharge its obligations under the Act, the Police must provide me with sufficient evidence to show that it has made a reasonable effort to identify and locate all records responsive to the request.

As I noted above, the Police explained how they conducted their search for responsive records. In essence, they indicated that they conducted a search under the appellant's name in the Police Service Records Management System as well as the old index card/microfilm system. In terms of locating the actual records, the Police note that once the search is conducted using the name of the individual and the occurrence report numbers are obtained, the actual reports are pulled from the files or printed from microfilm.

The Police indicate that their Records Retention By-Law provides that occurrence reports are kept for 25 years. The Police state that at the time the search was conducted, it had reports dating back to 1974. The Police state further that the search was conducted using the appellant's name as that is the only search mechanism available.

With respect to the event that the appellant states occurred in 1984 or 1985, the Police state:

> A search was conducted and the index cards for the requester were pulled. There were four reports listed for 1984/1985. They were as follows ... . The requester was given either full or partial access to all of these occurrence reports. There are no further occurrence reports listed on the index cards with the appellant's name for 1984/1985.

During mediation, the appellant described the event that occurred in 1984 or 1985 and indicated that he believed this record should exist. He did not address the search issue regarding this incident in his representations even though he clearly turned his mind to the search issue in general. In reviewing the representations submitted by the Police, I am satisfied that they took all the steps available to them to search for records responsive to the event as described by the appellant. Accordingly, I find that their search for responsive records was reasonable in the circumstances.

PERSONAL INFORMATION

Under section 2(1) of the Act, "personal information" is defined, in part, to mean recorded information about an identifiable individual, including any identifying number assigned to the individual and the individual's name where 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 Police submit that the records at issue all contain the personal information of a number of identifiable individuals other than the appellant and include such types of information as name, address, telephone numbers, medical information, relationships, and personal views or opinions. The Police note that the appellant is also identified in the records and acknowledge that they contain his personal information.

The records all relate to police investigations into matters in which the appellant was involved. In all cases, I find that the records contain information about the appellant as they document his involvement. In some cases, the appellant is not referred to directly by name, however, contextually, he is identifiable. In other cases, the appellant is referred to in the records in his official capacity as a police officer. However, the nature of these particular investigations pertain to matters which have a more personal connotation for the appellant, such as an attempted murder investigation in which the appellant was the victim. In the circumstances, I find that the records all contain his personal information.

With three exceptions, the records also contain the personal information of other identifiable individuals as involved parties or witnesses. The information about these individuals consists of their names, addresses, dates of birth and other identifying information as well as their observations, their actions and their medical conditions.

Records 19, 46 and 115 do not contain any information about an individual other than the appellant, nor would their disclosure permit a knowledgeable person to infer an individual's identity. Consequently, neither section 14(1) nor 38(b) can apply to these records. The Police have claimed that sections 8(2)(a) and (c) also apply to the records and I will consider these sections below.

INVASION OF PRIVACY

Section 36(1) of the Act gives individuals a general right of access to their own personal information held by a government body. Section 38 provides a number of exceptions to this general right of access.

Under section 38(b) of the Act, where a record contains the personal information of both the appellant and other individuals and the institution determines that the disclosure of the information would constitute an unjustified invasion of another individual's personal privacy, the institution has the discretion to deny the requester access to that information.

Sections 14(2) and (3) of the Act provide guidance in determining whether disclosure of personal information would result in an unjustified invasion of the personal privacy of the individual to whom the information relates. Section 14(2) provides some criteria for the institution to consider in making this determination. Section 14(3) lists the types of information the disclosure of which is presumed to constitute an unjustified invasion of personal privacy. Section 14(4) refers to certain types of information the disclosure of which does not constitute an unjustified invasion of personal privacy. The Divisional Court has stated that once a presumption against disclosure has been established, it cannot be rebutted by either one or a combination of the factors set out in 14(2) [Order P-1456, citing John Doe v. Ontario (Information and Privacy Commissioner) (1993), 13 O.R. (3d) 767].

The Divisional Court has stated that the only way in which a section 14(3) presumption can be overcome is if the personal information at issue falls under section 14(4) of the Act or where a finding is made under section 16 of the Act that a compelling public interest exists in the disclosure of the record in which the personal information is contained which clearly outweighs the purpose of the section 14 exemption.

In this case, the Police have cited the presumptions in sections 14(3)(a), (b) and (g) and the factors in sections 14(2)(e), (f), (g), (h) and (i) in conjunction with section 38(b). The appellant submits that section 14(2)(d) is relevant in the circumstances of this appeal. These sections read:

> 38. A head may refuse to disclose to the individual to whom the information relates personal information,
>
> (b) if the disclosure would constitute an unjustified invasion of another individual's personal privacy;
>
> 14.(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,

(d) the personal information is relevant to a fair determination of rights affecting the person who made the request;

(e) the individual to whom the information relates will be exposed unfairly to pecuniary or other harm;

(f) the personal information is highly sensitive;

(g) the personal information is unlikely to be accurate or reliable;

(h) the personal information has been supplied by the individual to whom the information relates in confidence; and

(i) the disclosure may unfairly damage the reputation of any person referred to in the record.

14.(3) A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy if the personal information,

(a) relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation;

(b) 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;

(g) consists of personal recommendations or evaluations, character references or personnel evaluations;

Section 14(3)(b)

The Police submit that section 14(3)(b) applies to exempt the withheld information from disclosure as the records all relate to various police investigations which were conducted for the purpose of determining whether there had been a violation of the Criminal Code or other relevant legislation. The Police list the various offences which were identified in the records at issue.

The appellant's representations focus on one particular investigation. In this regard, the appellant states:

> We do not feel that the police force can rely on this presumption. The police investigated a suicide. The mere fact that a police force is conducting an investigation does not make the investigation an investigation into a possible violation of the law. There has to be an identifiable breach of the law to warrant the use of the presumption in section 14(3). Since suicide is not a breach of the law, the police cannot rely on the fact of a suicide and the

> police investigation of such as raising the presumption contained in section 14(3). If this were the case, any investigation conducted by a police force of any matter would be presumed to be an unjustified invasion of privacy pursuant to section 14(3). It is submitted that the presumption in section 14(3) is not that broad.

The appellant indicates that he has made a claim pursuant to the Workplace Safety and Insurance Act for a disability that he alleges arose directly out of an incident that occurred while he was employed as a police officer with the Police. The appellant states that, in defending its interests in this claim, the Police have tendered statements from other police officers which indicate that the appellant's disability did not arise from a workplace incident, but rather, arose as a result of the suicide of his girlfriend. The appellant argues that he requires as much information about the suicide as he can get in order to have his rights fairly determined by the Workplace Safety and Insurance Appeals Tribunal.

In Order MO-1323, I commented as follows on the application of section 14(3)(b) to a police investigation into a suicide:

> The Police state that a "death investigation" is conducted to determine whether it was a result of murder, manslaughter or criminal negligence (under the Criminal Code). The Police indicate that "foul play" must be ruled out. The Police also note that during their investigation, the appellant indicated to them that she did not believe her son's death was a suicide and that she suspected the involvement of others in it.
>
> I accept that in cases of a sudden death, the Police are required to investigate in order to rule out "foul play" (see Orders M-1039, M-1115 and MO-1256, for example). Section 14(3)(b) only requires that the investigation be into a "possible" violation of law (Orders M-198, MO-1256, P-233, P-237, P-1225 and PO-1777, for example). Therefore, even though as a result of the investigation, the Police determined that the death was by suicide, the presumption may still apply to any personal information compiled during the investigation.

In my view, these comments are equally applicable in the current appeal. On review, I find that, with a few exceptions, all of the personal information in the records at issue was compiled by the Police and is identifiable as part of an investigation into a possible violation of law, including the investigation into the suicide. Accordingly, section 14(3)(b) applies to these portions of the records.

Some of the records pertain to events that occurred after the police investigation stage of the matter, for example, information relating to bail after charges had been laid, or to inquiries from counsel representing parties. Previous orders of this office have held that the presumption in section 14(3)(b) is limited to records which are compiled and identifiable as part of an **investigation** into a possible violation of law (Orders P-849, P-1622 and PO-1759). This line of orders has held that the presumption does not apply to records created or obtained for use in the prosecution of a violation, for example. In my view, this reasoning is equally applicable to information prepared by the Police relating to bail. As well, communications with parties following the completion of an investigation do not fall within the presumption based on this reasoning.

That being said, I find that the disclosure of personal information that would identify an individual as being involved in a criminal matter would cause extreme personal distress (Order P-434). Therefore, the factor in section 14(2)(f) is not only relevant to this information, but it is of significant weight in balancing the appellant's right of access against these individuals' rights to privacy.

I accept that some of the records at issue relate to the appellant's claim before the Workplace Safety and Insurance Appeals Tribunal and that section 14(2)(d) is relevant with respect to these records in the circumstances. However, in the context of the appellant's claim, this does not include the information to which I have found section 14(2)(f) to be relevant. As I indicated above, despite the relevance of the factor in section 14(2)(d) to portions of the records, once a presumption has been found to apply to the personal information in the records, it cannot be rebutted by either one or a combination of the factors set out in 14(2). Therefore, I find that section 14(3)(b) applies to the vast majority of the records at issue.

I find further that there are no factors favouring disclosure of the remaining personal information in the records. As this information is highly sensitive, its disclosure would constitute an unjustified invasion of personal privacy.

Absurd result

In Order M-444, former Adjudicator John Higgins found that non-disclosure of information which the appellant in that case provided to the police in the first place would contradict one of the primary purposes of the Act, which is to allow individuals to have access to records containing their own personal information unless there is a compelling reason for non-disclosure. This approach has been applied in a number of subsequent orders and has been extended to include not only information which the appellant provided, but information which was obtained in the appellant's presence or of which the appellant is clearly aware (Orders M-451, M-613, MO-1196, P-1414, P-1457 and PO-1679, among others).

Records 207, 208 and 209 contain the appellant's witness statement relating to the suicide of his girlfriend in 1975. This record was compiled and is identifiable as part of an investigation into a possible violation of law. I also accept the submissions of the Police that information about a suicide is highly sensitive.

The Police are of the view that information about the suicide would have no value to the appellant. To the contrary, the appellant has raised a legal interest in obtaining information about the suicide to assist him in asserting his workplace safety claim. I have considered the other factors and presumptions raised by the Police and am not satisfied that they have any relevance to these three pages of the records. It is also important to note that the death occurred approximately 25 years ago.
In my view, to withhold a statement given by the appellant in these circumstances would be contrary to one of the primary purposes of the Act, which is to provide a right of access to information which the appellant provided to the Police in the first place. Accordingly, I find that to withhold Records 207, 208 and 209 would result in an absurdity and on this basis I find that their disclosure would not constitute an unjustified invasion of privacy.

Findings under section 38(b)

As I indicated above, with the exception of Records 207, 208 and 209, most of the information at issue falls within the presumption in section 14(3)(b). The remaining personal information is highly sensitive (section 14(2)(f)) and, on balance, its disclosure would constitute an unjustified invasion of personal privacy. I have considered the submissions of the Police regarding their exercise of discretion in applying section 38(b) to these records and find that it should not be disturbed. Accordingly, all of the personal information at issue is exempt under section 38(b) of the Act with the exception of the personal information in Records 207, 208 and 209.

DISCRETION TO REFUSE REQUESTER'S OWN INFORMATION/LAW ENFORCEMENT

Section 36(1) of the Act gives individuals a general right of access to their own personal information held by a government body. Section 38 provides a number of exceptions to this general right of access.

The Police have relied on section 38(a) to deny access to the undisclosed portions of the records. Under section 38(a), an institution has the discretion to deny access to an individual's own personal information in instances where the exemptions in sections 6, 7, **8**, 9, 10, 11, 12, 13 or 15 would apply to the disclosure of that personal information.

The Police claim that sections 8(2)(a) and (c) apply to the information at issue in this appeal. As I have found that the majority of the records are exempt under section 38(b), I will consider the application of these two sections only to Records 19, 46, 115, 207, 208 and 209.

Sections 8(2)(a) and (c) state:

A head may refuse to disclose a record,

> (a) that is a report prepared in the course of law enforcement, inspections or investigations by an agency which has the function of enforcing and regulating compliance with a law;
>
> (c) that is a law enforcement record if the disclosure could reasonably be expected to expose the author of the record or any person who has been quoted or paraphrased in the record to civil liability;

Section 8(2)(a)

Only a report is eligible for exemption under this section. The word "report" is not defined in the Act. For a record to be a report, it must consist of a formal statement or account of the results of the collation and consideration of information (Order P-200). Generally speaking, results would not include mere observations or recordings of fact (Order M-1048).

Record 19 contains what appears to be database information pertaining to the appellant. The information in the record was entered by the Police. It should be noted that the legibility of this record is questionable but I am able to read it with some effort.

Record 46 is a Police record entitled "Additional Offences".

Record 115 is a supplementary report.

As I indicated above, Records 207, 208 and 209 contain the appellant's statement regarding his girlfriend's suicide.

Records 19 and 46 are simply a listing of factual information regarding the appellant. I find that these records do not fall within the definition of "report" as defined above. Therefore, sections 8(2)(a) and 38(a) do not apply to them.

Records 207, 208 and 209 contain details of the event as recollected by the appellant. It is not a formal statement or account of the results of the collation and consideration of information. Rather, it is more appropriately described as a collection of "mere observations and recordings of fact". Therefore, these records do not qualify as a "law enforcement report" and sections 8(2)(a) and 38(a) do not apply to them.

In Order M-1109, Assistant Commissioner Tom Mitchinson noted:

> An occurrence report is a form document routinely completed by police officers as part of the criminal investigation process. This particular Occurrence Report consists primarily of descriptive information provided by the appellant to a police officer about the alleged assault, and does not constitute a "report".

In my view, the supplementary report in Record 115 can be similarly characterized. In this case, the supplementary report consists of recordings of fact and the observations of the police officer who prepared it. I find that the content of this document does not constitute a "report" as defined above. Therefore, sections 8(2)(a) and 38(a) do not apply to it.

Section 8(2)(c)

The Police state:

> It is unknown why the appellant requires the records at issue, but it is safe to say that some of the information if released could subject the writers to civil liability. If, in fact, the appellant is involved in a civil action, the reports could be subpoenaed or summonsed to the court.

In Order MO-1192, I made the following comments on the application of this section:

> In my view, the inclusion of section 8(2)(c) within the law enforcement exemption is to protect individuals who have provided information to the police during a police investigation, or who have authored a record in this context, the nature of which may expose them to civil liability. In this case, the Police are only concerned about information

> which has been provided to the police. Examples of this type of information would include information of a speculative nature, innuendo and hearsay. (See also: Reconsideration Order R-970004 for other circumstances in which section 8(2)(c) may be applicable).
>
> I do not accept that the Act contemplates that an individual who is being investigated for criminal activity or those who provide statements regarding what they directly observed would necessarily fall within the protection of this section without some further indication of exposure to liability. The representations of the Police fall short of establishing that anyone quoted or paraphrased in the record could reasonably be expected to be exposed to civil liability as a result of their involvement in the investigation or of anything they said. Rather, in my view, any potential civil liability stems from the actions of the suspect rather than anything that was said to the police during their investigation into this matter. Accordingly, I find that sections 8(2)(c) and 38(a) do not apply to the information in the records.

In general, I find that the representations of the Police in the current appeal also fall short of establishing that anyone quoted or paraphrased in any of the records at issue in this appeal could reasonably be expected to be exposed to civil liability as a result of their involvement in the investigations referred to in the records.

With respect to Records 19, 46, 115, 207, 208 and 209, the latter three records are the appellant's own statement and their disclosure to the appellant could not reasonably be expected to result in the harm contemplated by this section. Records 19 and 46 are simply recordings of fact as determined by the Police. Finally, in my view, section 8(2)(c) was not intended to be used to protect from disclosure, recordings of a police officer's observations and actions on a police report which is completed as part of the officer's official responsibilities. Accordingly, I find that sections 8(2)(c) and 38(a) do not apply to these records. As no other exemptions apply to Records 19, 46, 115, 207, 208 and 209, these records should be disclosed to the appellant.

ORDER:

1. The search conducted by the Police for records relating to the incident that occurred in 1984/1985 was reasonable and this part of the appeal is dismissed.

2. I order the Police to provide the appellant with copies of Records 19, 46, 115, 207, 208 and 209 by sending him a copy of these records on or before **October 12, 2000**.

3. I uphold the decision of the Police to withhold the remaining records from disclosure.

4. In order to verify compliance with Provision 2, I reserve the right to require the Police to provide me with a copy of the records disclosed to the appellant.

Original signed by: September 21, 2000
Laurel Cropley
Adjudicator