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

ORDER MO-1578

Appeal MA-010331-1

City of Hamilton

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NATURE OF THE APPEAL:

This appeal concerns a decision of the City of Hamilton (the City) made pursuant to the provisions of the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*). The requester (now the appellant) had sought access to records regarding red light cameras (RLCs) and the amount of time a yellow light is displayed at a traffic light. The appellant concurrently submitted a second request to the City seeking access to records regarding the selection criteria used to determine the placement of RLCs in the City. As both requests seek similar information, the City proposed that the two requests be treated as a single request. Subsequently, the appellant clarified its request, advising that it was only interested in information relating to the length of time a yellow light is displayed on a traffic light, as this pertains to RLC settings, and the criteria used for the selection of RLC sites.

The City issued a fee estimate for the costs associated with its search for records responsive to the appellant's request and the photocopying of the records. The City, subsequently, issued a decision letter in which it advised that it had located 415 responsive records, including e-mails, meeting minutes and agendas, statistical data, timing sheets, reports to council and correspondence. The City granted partial access to the responsive records. The City claimed that seven records, described as e-mails containing legal advice, were exempt in their entirety, pursuant to section 12 of the *Act*. The City claimed that 86 records, consisting of two e-mails containing personal information, one page of minutes from a steering group meeting containing recommendations, three e-mails containing legal advice, and 80 records containing locations of RLCs, or considered locations, were partially exempt. In respect of the 86 records, the City relied, respectively, upon section 14(1) (personal information), section 7(1) (advice or recommendations), section 12 (solicitor-client privilege), and section 8(1)(a) (law enforcement matter), of the *Act*. The City indicated that one RLC location was already in the public domain and, therefore, reference to this location was disclosed. In its decision letter, the City also issued its final fee calculation pursuant to section 45 of the *Act*.

The appellant appealed the City's decision to this office.

During the mediation stage of this appeal, the appellant clarified the records that it was interested in obtaining. The appellant indicated that it was not interested in obtaining the following records: pages 56-60 (denied in full pursuant to sections 8(1)(a) and 12), pages 62-63 (denied in part pursuant to section 12), page 74 (denied in part pursuant to sections 8(1)(a) and 14(1)), pages 75-76 (denied in full pursuant to section 12), page 85 (denied in part pursuant to section 14(1)), pages 86-87 (denied in part pursuant to section 12), and page 91 (denied in part pursuant to section 7). These records are, therefore, no longer at issue in this appeal. In addition, during the course of mediation, the appellant confirmed that it was only seeking information relating to the City. As a result, the appellant agreed that part of page 12 and all of pages 89 and 90 were non-responsive and no longer at issue. Finally, in the mediator's review of the records, a number of duplicate pages were identified. In order to consolidate the records at issue, the appellant agreed to the removal of the following duplicate pages from the records at issue: pages 36 and 46 (duplicate copies of page 22), page 47 (duplicate copy of page 23), page 51 (duplicate copy of page 24), pages 50 and 52 (duplicate copies of page 25), pages 45 and 49 (duplicate copies of page 26), pages 48 and 53 (duplicate copy of page 27), page 54 (duplicate copy of page 28), and page 55 (duplicate copy of page 29a).

At the conclusion of the mediation stage, the appellant had narrowed the scope of its appeal to 63 pages of severed records. The City advised that it was relying upon section 8(1)(a) of the *Act* as the basis for denying access to these records.

I, initially, sent a Notice of Inquiry to the City, which outlined the facts and issues in the appeal, and I received representations in response. The City's representations were shared in their entirety with the appellant, along with the Notice, and the appellant submitted representations in response. The appellant's representations were shared in their entirety with the City. I then sought and received reply representations from the City in respect of the appellant's submissions. I then sought further representations from both the City and the appellant simultaneously on certain additional outstanding issues.

RECORDS:

There are 65 records at issue in this appeal consisting of tables (relating to RLC locations), handwritten notes (with reference to RLC locations), work orders (relating to the length of time colours are displayed at traffic lights at particular locations), computer printouts (relating to amber timing results at particular locations), internal e-mails (containing RLC location information).

DISCUSSION:

INTERFERENCE WITH A LAW ENFORCEMENT MATTER

Introduction

The City claims that section 8(1)(a) applies to the records. This section reads:

> A head may refuse to disclose a record if the disclosure could reasonably be expected to,
>
> > interfere with a law enforcement matter;

Thus, the City must demonstrate the following for section 8(1)(a) to apply:

(i) the red light camera program qualifies as "law enforcement";

(ii) there is a "matter" in existence; and

(iii) disclosure of the records could reasonably be expected to interfere with the law enforcement matter.

Does the City's RLC program qualify as "law enforcement"?

For a record to qualify for exemption under this section, the "matter" reflected in the record must relate to "law enforcement" as that term is defined in section 2(1) of the *Act*.

The words "law enforcement" are defined in section 2(1) of the *Act* as follows:

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

The City states in its representations:

> The [RLC] Project is designed to increase compliance with the *Highway Traffic Act*, specifically with Section 144, Traffic control signals and pedestrian control signals. The use of RLCs is governed by Part XIV.2 of the *HTA*, as well as Ontario Regulation 277/99. Increasing compliance with, or preventing violations of, is one of the definitions of "policing". In Section 2 of the [*Act*] "law enforcement" is defined, in part, as "policing". Merriam-Webster's on-line dictionary (www.m-w.com) defines policing, in part, as "to supervise the operation, execution, or administration of **to prevent or detect** and prosecute violations of rules and regulations" (emphasis added). As the purpose of the RLC project is to prevent and detect violations of Section 144 of the *HTA*, it clearly meets the definition of law enforcement set out in [the *Act*].

The appellant makes no specific submissions on this point.

The City's RLC program is designed to prevent, detect and prosecute violations of section 144(18) of the *Highway Traffic Act*, a breach of which constitutes an offence punishable by a fine under section 144(31.2) of that act. As a result, I am satisfied that, generally speaking, the City's RLC program qualifies as "law enforcement" as that term is defined in section 2(1) of the *Act*.

Is there a "matter" in existence?

In Order MO-1262, Assistant Commissioner Tom Mitchinson clarified the scope and meaning of the word "matter" as it appears in sections 8(1)(a) and (b) of the *Act*. In that case the appellant had made a request to the (then) Hamilton-Wentworth Regional Police (the Police) for access to all directives, procedures, policies and memoranda regarding the investigation and handling of

drinking and driving offences. The Police denied access to the only responsive record pursuant to sections 8(1)(a), (b), (c) and (e) of the *Act*. In his decision, Assistant Commissioner Mitchinson states:

> The Police submit the following representations regarding sections 8(1)(a) and (b):
>
> > The [Police Service] is required to follow our Policies and Procedures. One such Policy and Procedure is the Police Orders Protocol. Part of this Procedure deals with Reproduction, Use and Security of Police Orders. It states that Police Orders shall not be made available to persons outside the employ of the [Police] without the consent of the Chief of Police and subject to the provisions of [the *Act*].
> >
> > When a request is then made pursuant to [the *Act*] for Policies and Procedures of this Police Service, the policy would then [be] reviewed to ascertain if that individual policy would be available to the public or if there were specific requirements for the protection of the information.
> >
> > For all these reasons, it is the submission of the Police Service that disclosure of the record in issue could reasonably be expected to *interfere* with a potential law enforcement matter.
>
> The representations provided by the Police do not deal with any current or ongoing investigation of criminal activity. The Police in fact acknowledge that any possible interference associated with disclosure of the procedures would relate to **potential** rather than **ongoing** investigations. Past orders have made it clear that sections 8(1)(a) and (b) only apply in the context of ongoing investigations. Accordingly, I find that disclosure of the record could not reasonably be expected to interfere with a current and ongoing law enforcement matter and/or investigation and, therefore, the record does not qualify for exemption under either section 8(1)(a) or section 8(1)(b).

The City submits:

> There are some obvious differences between the type of information at issue between our current appeal and the appeal described in [Order MO-1262]. The material withheld by the police relates to a procedure to be followed in the event of an alcohol related offence. The information itself does not deal with a specific incident or series of incidents, nor with the prevention of such incidents (as far as one can tell by reading the description and representations provided by the police), but with what should be done in event of such an incident.

> In the current appeal, the information at issue relates directly to on-going law enforcement matters.
>
> . . . . .
>
> . . . [T]he RLC program began in November of 2000, and was initially scheduled to continue to November of 2002. The date of this program has been extended an additional two years, as approved by Hamilton City Council on July 10, 2002 and authorized by the Province of Ontario in the form of Bill 149. The Bill, as it reads in its current form (first reading of this bill has occurred), would permit the program to be extended even further, should the Lieutenant Governor issue a proclamation to that effect prior to November 20, 2004. Further, as these cameras (there are [a specified number of] cameras which rotate between [a specified number of] locations) are in operation 24 hours a day, 7 days a week, the "law enforcement" is clearly on-going.
>
> However, the information at issue in this appeal is not procedural information, it is the actual locations of the RLCs . . .
>
> Order MO-1262 also speaks to Section 8(1)(c) of *MFIPPA*. While our office has not claimed this exemption in this appeal, we would like to point out that the RLC locations are not considered to be public knowledge, as the policies and procedures of the police in Order MO-1262 are considered to be. To date, the City has only publicized one location for the purposes of promoting the program. The City has not published the other . . . locations on its web site, nor in any other material issued from the City. The one publicized location was not severed from the records released to the requestor.
>
> In summation, in the opinion of the City, Order MO-1262 does not appear to be a relevant consideration given the nature of the information at issue in this appeal. The order deals with records related to procedures and policies, while this appeal relates to information directly linked to law enforcement operations . . .

I appreciate the City's comments that there may be a qualitative difference between the "procedural" records in Order MO-1262 and the records in this case. However, in my view, this distinction is irrelevant to the question of whether there is a "matter" in existence here for the purpose of the section 8(1)(a) exemption. Applying Assistant Commissioner's analysis and reasoning to the facts of this case, for the City to successfully apply the section 8(1)(a) exemption it must establish that disclosure of the records would interfere with a *specific, ongoing* law enforcement matter. In my view, section 8(1)(a) is not intended to permit an institution to withhold records that relate only generally to law enforcement, and not to a specific matter. While the RLC pilot project is clearly a law enforcement initiative, section 8(1)(a) cannot apply in the absence of a direct link between the records at issue and a specific law enforcement matter. This is not to say that the section 8 exemption is not designed to protect law enforcement interests beyond a specific investigation or prosecution. Other subsections under section 8 do precisely that, such as section 8(1)(c), which protects certain "investigative techniques and procedures", or section 8(1)(l), which permits an institution to withhold records that could

reasonably be expected to "facilitate the commission of an unlawful act or hamper the control of crime." However, the City has claimed only section 8(1)(a), and this is the sole exemption before me for consideration. For the reasons outlined above, I find that the records do not relate to a law enforcement "matter" and, therefore, do not qualify for exemption under section 8(1)(a).

Could disclosure of the records reasonably be expected to cause "interference"?

Introduction

Although it is not necessary for me to do so, I will consider whether disclosure of the records could reasonably be expected to interfere with the City's RLC program.

In Order PO-1747, Senior Adjudicator David Goodis states:

> The words "could reasonably be expected to" appear in the preamble of section 14(1), as well as in several other exemptions under the *Act* dealing with a wide variety of anticipated "harms". In the case of most of these exemptions, in order to establish that the particular harm in question "could reasonably be expected" to result from disclosure of a record, the party with the burden of proof must provide "detailed and convincing" evidence to establish a "reasonable expectation of probable harm" [see Order P-373, two court decisions on judicial review of that order in *Ontario (Workers' Compensation Board) v. Ontario (Assistant Information and Privacy Commissioner)* (1998), 41 O.R. (3d) 464 at 476 (C.A.), reversing (1995), 23 O.R. (3d) 31 at 40 (Div. Ct.), and *Ontario (Minister of Labour) v. Big Canoe*, [1999] O.J. No. 4560 (C.A.), affirming (June 2, 1998), Toronto Doc. 28/98 (Div. Ct.)].

I concur with the above findings. In order to establish the requirements of section 8(1)(a), the City must provide detailed and convincing evidence sufficient to establish a reasonable expectation of probable harm as described in this section.

Representations

The City submits:

> . . . [T]he City feels it would be detrimental to release the locations of the RLCs. While it is true that revealing locations of the [RLCs] may reduce the number of violations at the eight locations where the RLCs are installed, the project is designed to reduce violations *throughout* the city, not just at specific locations. Studies conducted by the Insurance Institute of Highway Safety in Fairfax, Virginia and Oxnard, California . . . have shown a decrease of approximately 40% in the number of [red light] violations in cities with cameras, at both RLC intersections and non-RLC intersections. There are over 400 traffic light intersections in the City of Hamilton. Revealing the locations of the cameras may

> increase compliance at the eight locations, but the remaining [locations] would see no reduction in the number of violations.
>
> The . . . studies show that RLC installation not only decreases the number of violations at intersections where the cameras are installed, but also has a "halo" effect, reducing violations at all intersections in the city . . .
>
> What this demonstrates is that when motorists are aware of RLCs, but not their locations, they modify their driving habits to be more conscious of red light running.
>
> . . . . .
>
> The former Region of Hamilton-Wentworth (now the City of Hamilton) spent considerable time deciding where the cameras should be located. They were not simply placed at intersections with the highest rates of Red Light violations and/or the highest rates of right-angle collisions (the type of collision most commonly associated with red light violations), but were purposely located throughout the City in order to maximize the spill-over or halo effect of the RLCs. This spill over effect […] means that when motorists are aware of RLCs, but not their locations, they modify their driving habits at all red lights, not just intersections with RLCs installed. By careful selection of RLC location, the City has attempted to maximize the spill over effect of the RLC program, thus preventing a greater number of violations and/or collisions resulting from these violations. By releasing the locations to the public, either through signing the RLC sites, providing the information on a web site, or to the media, this spill over effect would be minimized, if not negated entirely. Drivers aware of the RLC locations will have impetus to change their driving habits only at the RLC sites, not at all signalized intersections in the City. This would defeat the purpose of the City's program.

The appellant submits:

> We feel the locations of the intersections are important if motorists are to draw important safety-related conclusions after reading the rest of the data. Releasing this information will raise awareness of traffic and safety issues at specific intersections. Public knowledge of this information could well prevent accidents before they happen, and possibly save lives.
>
> It will not compromise law enforcement efforts, or inhibit the ability of police to do their important job.
>
> There is considerable support from significant sources for the basis of our argument. [T]he cities of Ottawa and Toronto both publicize the locations of their [RLCs] in the interest of public awareness. And the Canada Safety Council has taken the issue a step further, calling on cities to actually install warning signs advertising the locations of [RLCs].

> "The purpose of [RLCs] is to prevent collisions by stopping drivers from running red lights…not to make money or simply to punish offenders," said Canada Safety Council president Emile Therien.

The City submits in reply:

> . . . [I]t is the City's position that intersection names are not needed for motorists to understand the dangers of running red lights.
>
> . . . The City [. . .] does not disagree that if the RLC locations were released to the public that [red light] violations and collisions would be reduced at those specific locations. However, the purpose of the RLC program is to reduce red light violations and resulting collisions across the entire City, not just at specific locations.
>
> . . . The appellant makes an unjustified assumption when she states that Toronto and Ottawa reveal their RLC locations in the "interest of public awareness". The documents provided in support of the appellant's claim make no assertions that the locations are being revealed in the interest of public awareness, nor does it make any assertions as to why the information is being made available.
>
> . . . It is not necessary to reveal the locations of RLCs in order to raise awareness of the program. For RLCs to be effective, the public need only be aware of their existence, not their location.
>
> . . . The press release from the Canada Safety Council, as included with the appellant's representations, states "Research clearly shows that if people believe they will be caught, they are far less likely to offend." By revealing the locations of Hamilton's RLCs the belief that a motorist will get caught will exist only at the RLCs intersections.
>
> . . . The program is designed to foster a safer environment for the public, not to generate revenues.

After reviewing the studies conducted by the United States based Insurance Institute for Highway Safety in Fairfax, Virginia (the Fairfax Study) and Oxnard, California (the Oxnard Study) that the City included with its representations, I located an additional report relevant to this issue, a 1994 Australian study entitled *Traffic Law Enforcement: A Review of the Literature* by Dominic Zaal of the Federal Office of Road Safety, Department of Transport while on secondment to the Monash University Accident Research Centre (the Zaal Study). I then provided a copy of the Zaal Study to the City and the appellant, and both parties commented on it. I will discuss the Zaal Study and the parties' comments below.

Analysis

Even if it could be said that a specific law enforcement matter exists, I am not persuaded by the City's submissions that disclosure of these records could reasonably be expected to interfere with it as required by section 8(1)(a).

Both the City and the appellant have made thoughtful submissions regarding the impact that disclosure of the locations of the RLCs would have on law enforcement and public safety. I have also carefully reviewed the Fairfax and Oxnard Studies that the City relies on to support its conclusion that revealing RLC locations would result in reduced violations only at those intersections. The studies do find significant reduction in red light violations (approximately 40% in Fairfax and 42% in Oxnard)) in both camera and non-camera sites one year after implementation of the RLC programs. However, there would appear to be no evidence in either study that knowledge or lack of knowledge of the camera versus non-camera sites had an impact on driver adherence to obeying red lights. In the Fairfax Study (at page 8) the authors state: "[m]ost Fairfax residents knew about the cameras…" It is unclear from this statement whether the authors mean that the residents knew of the existence of the cameras and/or of their precise locations. In the Oxnard Study the authors indicate (at pages 3, 8):

> [RLC] enforcement…was preceded by a 30-day warning period, during which [RLCs] photographed violators, but no tickets were issued. As required by state law, signs advising motorists of photo enforcement of traffic signal laws were posted on major roadways at numerous locations entering the city. In addition, city officials attempted to generate publicity and awareness of the new program by issuing a press release and providing information to the local media.
>
> . . . . .
>
> One factor that may promote generalization to noncamera sites in Oxnard is the relatively large number of intersections equipped with cameras. This spillover effect is important because the practice in many communities has been to deploy only a few cameras.

It appears that the Oxnard program was well publicized in the community and, as in the Fairfax context, it is unclear of the level of awareness that motorists had regarding the locations of the RLCs. In my view, these studies are equivocal on the issue of the effects of site specific knowledge on driver behaviour, and do not assist me in determining the "interference" issue under section 8(1)(a).

The Zaal Study, in addressing how RLCs may deter drivers from running red lights, makes the following statements (at pages 155-156):

> It is likely that a large proportion of the accident reductions resulting from [RLCs] are due primarily to site specific deterrence effects. Perceived apprehension risk increases as drivers become aware of the increase in the actual risk of apprehension, due to publicity and the visible presence of the [RLC] hardware. In

the Australian States of Victoria and New South Wales, the site specific effect has been maximized in a number of ways:

(a) by the use of warning signs on all the approaches to a treated intersection, although the camera only operates on one traffic stream;
(b) by making the camera hardware installations (camera housing and flash unit) clearly visible to motorists;
(c) by using a small number of cameras rotated through a large number of sites; and
(d) by using widespread publicity to increase awareness of the [RLC] program.

One feature of the Victorian, New South Wales and South Australian [RLC] sites are that they are clearly signposted with the message "RED LIGHT CAMERAS AHEAD". South et al (1989) stated that "it was clear that the maximum deterrent effect would only occur if the presence of the devices was signalised in some way" and concluded that warning signs, as visible symbols of enforcement, were likely to provide the greatest deterrent effect to red light running behaviour.

This notion was supported by Hillier et al (1993) who found that the presence of the [RLC] hardware (signposting and camera housing/flash unit) appeared to be effective at reducing right angle and right turn against accidents, even when seldom used as active [RLC] sites. It appears that drivers see the installed hardware and are reminded of the possible risk of detection even when they know that the site is not always actively enforced.

The benefits of using site specific warning signs at the approaches to [RLC] intersections has recently been questioned. Bodinar (1993) has argued that, after a suitable time period, drivers learn that only sign-posted intersections present the possibility of [RLC] detection and hence modify their behaviour at those sites but are less cautious and law abiding at other non-camera site intersections. This finding is supported by Chin (1989) who reported a significant reduction in red light running at camera sites but no such reduction at non-camera sites.

Boddinar (1993) suggested that generalised [RLC] sign posting should be used as opposed to site specific sign posting as a possible means of addressing this problem. This sign posting practice would still ensure that driver awareness of [RLC] operations was maintained, but by not highlighting the precise location of the camera sites, may actually lead to drivers modifying their behaviour at all signalized intersections. A contrary argument has been put forward by Schnerring (1993). He suggested that, since [RLC] sites are selected on the basis of accident history, the use of generalised sign posting may reduce the deterrent effect of site specific sign posting and increase the number of accidents at potentially dangerous intersections.

> No research evidence was found relating to the deterrent or crash reduction benefits of generalised as opposed to site specific sign posting. However, an evaluation study may soon be undertaken in New South Wales, Australia (Lane, 1993) to examine the benefits of both of these sign posting approaches.

The City makes the following submissions on the Zaal Study:

> The document references two different studies (Bodinnar (1993) and (Chin (1989)) which have argued that signing RLC sites has the effect of reducing violations at the sites themselves, but have no effect on non-camera intersections. Bodinnar advocated the generalized signing regarding RLCs, rather than identifying the actual locations. The City of Hamilton, which does not have RLC signs, has aggressively advertised the City's RLC program, via print, radio and internet mediums, which one should expect to have the same effect of the generalized signing advocated by Bodinnar.
>
> It is the City's position that releasing the locations to the requester, who is a reporter for the major daily newspaper in the City, if published, would have the same effect as signing the actual RLC locations. As our office has pointed out in previous representations, it [is] the intention of the program to reduce red light violations and red light related collisions across the City. As placing RLCs at all signalized intersections is not economically feasible (the RLC program runs at a net loss with […] eight locations), the City is relying on generalized deterrence, also referred to as the halo or spill over effect of RLCs. As Chin and Bodinnar have indicated, a RLC program does not achieve a general deterrence where the RLC sites are public.
>
> Further, while South et al. and Hillier et al. have argued "the maximum deterrent effect would only occur if the presence of the devices were signalized in some way", this maximum deterrence occurs only at RLC sites. As indicated in the City's initial representations, the overall benefit to the City of Hamilton is greater (that is, fewer over all red light violations and fewer collisions) if all signalized intersections achieve a moderate increase in compliance than if the eight RLC locations receive 100% compliance.
>
> Finally, the document makes reference to an argument put forward by Schnerring (1993). This position that general deterrence is not as desirable as site specific deterrence as sites are selected on the basis of accident history. It is important to note that the City of Hamilton used more than site accident history as a criteria for RLC location selection. As might be expected, the intersections with high accident histories are located within the downtown core, an area with much heavier traffic than more suburban and rural areas. In order to maximize the general deterrence of the RLCs, a number of sites outside of the downtown were selected in order to prevent motorists from being wary only when in the downtown.

> In the City's opinion, this Law Enforcement paper reinforces the arguments in favour of exempting the RLC locations submitted in earlier representations and partially reiterated here.

The appellant provides the following representations regarding the Zaal Study:

> This data undermines the city of Hamilton's contention that publicizing [RLC] locations would cause motorists to flout the law at other intersections.
>
> Hamilton officials want the [RLC] locations concealed, so the onus is on them to demonstrate the basis of their claim. And at very best, the research paper *Traffic Law Enforcement: A Review of the Literature* finds a lack of consensus among various studies.
>
> Upon closer examination, the studies endorsing public awareness of camera locations — MacLean (1985), Hillier (1993), and South et al (1989) - appear supported by experience-based research, not hypothesis.
>
> Bodinnar (1993) demurs, but then qualifies its position by stating the heart of the issue has to do with the strategy of public signage. There is no discussion about the merits of disseminating the locations to the media for the one-time or very infrequent public examination of the effectiveness of [RLCs] at key intersections.

Zaal's comments, supported by the views of other experts, regarding the site specific deterrence effects of publicity and the visible presence of the RLC hardware, are compelling. In my view, the Zaal Study strongly supports site specific deterrence over generalized deterrence as a means of enhancing awareness of and adherence to red light laws. However, Zaal does acknowledge that there are other experts who feel that generalized RLC sign posting is preferable to specific warning signs to maximize deterrence. Despite Zaal's suggestion of an "evaluation study" in New South Wales, I have not found any follow-up research into the deterrent benefits of generalized as opposed to site specific sign posting.

The onus is on the City to establish a reasonable basis for supporting general deterrence over specific deterrence and, in my view, the City has not met this onus. I do acknowledge the City's economic situation and the choice it has made to utilize its limited resources. However, the City has not established how knowledge of specific RLC locations would reduce driver compliance at non-RLC locations. Based on the studies before me and the parties' representations, I find the arguments against site specific publicity and sign posting, at best, inconclusive.

In my view, the principle purpose of the RLC pilot project is to increase public safety. The preponderance of evidence before me suggests that the more that people are made aware of RLCs, the greater their adherence to the law which, in turn, will result in enhanced public safety. Three participants in the pilot project – Toronto, Ottawa and Peel – have widely publicized the locations of the RLCs within their municipalities on their websites. It is reasonable to conclude

that these municipalities do not believe that publishing the locations of their RLCs undermines the deterrent effect of the program. Finally, it is my understanding, in part based on the Australian experience, that the camera housings and flash units for RLCs are fairly large and conspicuous. As a result, it appears that individuals can detect RLC sites – whether or not actual camera equipment is installed – fairly easily.

To conclude, the City has not persuaded me that disclosure of the records at issue could reasonably be expected to interfere with its RLC program, even if it did qualify as a "law enforcement matter" under section 8(1)(a) of the *Act*.

ORDER:

1. I order the City to disclose, in full, to the appellant all 65 records at issue. Disclosure is to be made by the City to the appellant by **November 1, 2002**.

2. I reserve the right to require the City to provide me with a copy of the records disclosed to the appellant pursuant to Provision 1 of this order, only upon request.

Original signed by: October 10, 2002
Bernard Morrow
Adjudicator