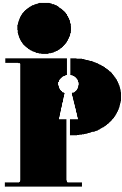

Information and Privacy
Commissioner/Ontario
Commissaire à l'information
et à la protection de la vie privée/Ontario

ORDER MO-1987

Appeal MA-040216-1

Ottawa Police Services Board

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NATURE OF THE APPEAL:

The Ottawa Police Services Board (the Police) received a request under the *Act* for a copy of the "G8, G20 emergency plans and executive summaries and evaluation of these events from the OPS perspective", and the "latest OPS-only draft/final emergency plan for security/natural disasters".

It appears from the records provided to this office that the Police interpret the request to refer to documents relating to intelligence, security and emergency response plans and measures relating to a meeting of the G8 country leaders in Alberta in June of 2002 and a meeting of the Group of 20, an international forum of finance ministers and central bank governors, in Ottawa in November 2001. This G20 meeting took place concurrently with meetings of the International Monetary Fund and the World Bank. The information in question also relates to those meetings.

The Police identified 659 pages of reports, correspondence, reviews, plans and procedures as responsive to this request and denied access to everything in the records. As a basis for denying access, the Police relied upon the following exemptions: section 8(1)(c), (e), (i) and (l) (law enforcement); section 9(1)(a), (b), (c), (d) and (e) (relations with governments); section 11(f) (economic and other interests); and section 11(g) (proposed plans of an institution). However, the Police did not specify which exemptions applied to which records or parts of records.

The requester (now the appellant) appealed the decision of the Police to deny access and in doing so alleged that the public is entitled to know about the police emergency plans to ensure accountability and public confidence. This raises the issue of whether there is a compelling public interest in the disclosure of the records under section 16 of the *Act* which overrides the claimed exemptions in sections 9 and 11. The appellant also claimed that the exemptions were not applied to specific records, and that the Police should be able to sever exempt information from the records rather than deny access to all the information in the records.

When the appeal was received, this office sent the Police a request to provide a copy of the records for use in deciding the appeal as well as an index of the records at issue and the exemptions claimed for each record. The Police were directed to *Practice Direction 1 – Providing Records to the IPC During an Appeal. Practice Direction 1* states:

> …a detailed index should be provided, showing the name of each document, its creation date, whether it was disclosed in whole or in part or entirely withheld, and what exemption has been claimed for each withheld record or part.

A checklist that accompanies this Practice Direction provides further detail as to how this index is to be prepared. For example, it asks institutions to "Clearly indicate the claimed exemptions on each record" and "Where more than one exemption is claimed per record, or for a portion of a record, indicate the exemptions being claimed in the margin of each page".

The Police provided an "Index of Records", which appeared to indicate that there were three responsive records. These records were not described in the index. The pages provided to this office were consecutively numbered from 1 to 659, but there was no indication of where each record begins and ends. Moreover, from my review of the records, there appeared to be more

than three records provided. The Police also did not provide any indication of which exemptions relate to which information in the records.

Mediation did not resolve the issues, so the appeal entered the adjudication stage. I initially sent the Police a Notice of Inquiry setting out the facts and issues in this appeal and sought representations from the Police.

In this Notice of Inquiry, I requested the Police, in bold type, to provide to this office and to the appellant an index of records that indicates clearly the number of records in issue, the title or description of each record, the first and last page number for each record, and an indication of the specific information for which the Police claim each exemption.

The Police provided representations. In those representations they stated that there are two records at issue, the plans for "the G8" which consist of pages 1 to 161 and the plans for the "G20" which consist of pages 162 to 659. I do not agree that this is an accurate description of the records, and I have described them below under the heading "RECORDS". Despite my request and the earlier request by this office, the Police did not clarify in an index of records or in their representations which exemptions apply to which information.

I sent the non-confidential portions of the representations of the Police to the appellant together with a copy of the Notice of Inquiry and invited him to provide representations. The appellant chose not to make representations. However, I have taken into account the contents of his appeal letter, which states that:

> The exemptions were…not applied to specific denied records requested…, as they should be.
>
> The data sought cannot be totally denied and is severable.
>
> The citizens of Ottawa are entitled to know about the police's emergency plans and past actions in Ottawa. To do otherwise renders such actions unaccountable. Such plans need to have the confidence of the public that cannot be expected to happen with absolutely no records forthcoming.

RECORDS:

Pages 1 to 82 of the records are a document entitled "G8 Related Demonstrations in the National Capital Region – June 26-27, 2002", prepared by the Police. This record describes in detail the plans of the Police and other public agencies to monitor and control such demonstrations.

Pages 83 to 161 are a memorandum prepared by the Police and five appendices. The subject of the memorandum is "G8 Debrief Report". It records discussion at a debriefing session held after the G8 meeting and lists the participants in the session.

Pages 162 to 182 appear to be a single document. It is entitled "G-20 – Operational Review – Thursday, January 3, 2002". It is a discussion of what worked and what did not work in providing security for the G20 meeting, a list of attendees at the meeting where this was discussed, and a series of comments and recommendations.

Pages 183 to 659 are an untitled, undated document dealing with planning by the Police and other public authorities for dealing with demonstrations and emergencies during the G20 meeting of November 2001.

DISCUSSION:

ADEQUACY OF DECISION AND THE POLICE'S OBLIGATION TO IDENTIFY RECORDS AND EXEMPTIONS

As noted above, the appellant argued in his letter of appeal that the Police did not explain the application of the exemptions to specific denied records requested as he felt they should have. He believed that the while some of the information in the records might be subject to exemptions, the records were likely to contain other information that was not subject to exemptions, and therefore could be "severed" from the exempt information and disclosed. In fact, section 42 of the *Act* does oblige an institution to disclose as much of any responsive record as can reasonably be severed without disclosing material which is exempt.

Section 22(1) of the *Act* states, in part:

> Notice of refusal to give access to a record or part under section 19 shall set out, …
>
> (i) the specific provision of this Act under which access is refused,
>
> (ii) the reason the provision applies to the record,
>
> (iii) the name and position of the person responsible for making the decision, and
>
> (iv) that the person who made the request may appeal to the Commissioner for a review of the decision.

Section 22 (3.1) states:

> (3.1) If a request for access covers more than one record, the statement in a notice under this section of a reason mentioned in subclause (1)(b)(ii) or clause (3)(b) may refer to a summary of the categories of the records requested if it provides sufficient detail to identify them.

The requirements for an adequate decision letter denying access have been outlined in numerous previous orders of this office (for example, Orders P-158, MO-1281). As summarized in IPC Practices No. 1, the *Act* requires institutions to identify "[f]or each record or part of a record that is refused, the specific provision of the *Act* under which access is refused". IPC Practices No. 1 also indicates that institutions are expected to "explain why the provision applies to the record", and notes that [t]his explanation, along with the general description of the record, should enable the requester to understand why the information cannot be disclosed. As explained in Order M-913 and other orders, one of the reasons for this requirement is to assist requesters in determining whether to appeal the institution's decision to deny access.

Section 22(3.1) also supports the requirement to provide detailed information under section 22(1). Unless section 22(3.1) applies to permit a description of records by category, the Police are, by necessary implication, required to identify the exemptions claimed for *each* record and the reason each claimed exemption applies to *each* record for which it is claimed. There is no indication that the Police rely on section 22(3.1) in this appeal.

The requirements of an adequate decision letter denying access are also outlined in Order MO-1652, which dealt with an appeal from a decision of the Ottawa Police Service.

I agree with the appellant that the Police's decision letter was deficient. It failed to explain which exemptions apply to which records or portions, and why those provisions apply to the particular record(s). This failure also has implications once the matter becomes the subject of an appeal. Even if the Police claim that all the information in the records is exempt, unless every exemption claimed applies to all the information in the records, it is still necessary for me to determine which exemption or exemptions apply to which information. An adjudicator cannot do this efficiently unless an institution that claims exemptions specifies which exemptions apply to which information, particularly where numerous exemptions are claimed for voluminous records. It is also difficult, and sometimes impossible, for an appellant to make useful representations without some information about which exemptions are claimed for which information.

Beyond the issue of the decision letter, the Police have also not complied with direct requests from this office to provide this information during the appeal process. As the Police have not specified which exemptions apply to which information, the only option open to me in order to honour the rights of both parties under the *Act* is to treat the decision of the Police as a claim that all the exemptions cited apply to all the information in the records, except where the Police have clearly indicated otherwise. In this appeal, this requires me to consider whether each of eleven exemptions applies to each of 659 pages of records.

Although I have undertaken this exercise in this appeal, and there would be no benefit in ordering a new decision letter at this stage, the Police should observe the requirements of the *Act*, as outlined in IPC Practices No. 1, in responding to future requests. I will enclose a copy of this document with the copy of this order that I send to the Police.

RELATIONS WITH OTHER GOVERNMENTS

Does the mandatory exemption at section 9 apply to the records?

The Police claim that the mandatory exemption at section 9 applies to the records.

General principles

Section 9 states:

> (1) A head shall refuse to disclose a record if the disclosure could reasonably be expected to reveal information the institution has received in confidence from,
>
> (a) the Government of Canada;
>
> (b) the Government of Ontario or the government of a province or territory in Canada;
>
> (c) the government of a foreign country or state;
>
> (d) an agency of a government referred to in clause (a), (b) or (c); or
>
> (e) an international organization of states or a body of such an organization.
>
> (2) A head shall disclose a record to which subsection (1) applies if the government, agency or organization from which the information was received consents to the disclosure.

The purpose of this exemption is "to ensure that governments under the jurisdiction of the *Act* will continue to obtain access to records which other governments could otherwise be unwilling to supply without having this protection from disclosure" [Order M-912].

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

If disclosure of a record would permit the drawing of accurate inferences with respect to information received from another government, it may be said to "reveal" the information received [Order P-1552].

The Police made the following non-confidential representations, among others, in support of their claim that the section 9(1) exemptions apply to the records:

> The exemptions in Section 9 are used to prevent the release of the information that was received in confidence from the Canadian Government. Information regarding the *attendees for the G8 and G20 meetings along with world leaders, heads of state, dignitaries,* was provided to us by an agency of the Canadian Government and is collected under the Security Offences Act and the Canadian Security Intelligence Service Act. [Emphasis added]
>
> The Canadian Security Intelligence Act was designed and passed in Parliament in 1984 and is effective and is more commonly used since the terrorist attacks that plagued our society in 2001.
>
> The expectation of a violation of physical safety is a definite probability not only a possibility. There are newspaper articles attached that concur with the expectations of this Police Service that Public Safety is a major concern and a constant threat of terrorism is now a daily issue, not merely speculation or far fetched notion.
>
> The Royal Canadian Mounted Police, which is an agency of the Government of Canada, was consulted and provided information in confidence to protect the integrity of operational planning and execution of public safety operations.

I have reviewed the *Security Offences Act* and the *Canadian Intelligence Security Service Act* to which the Police refer. The Police do not explain the relevance of these statutes to the application of section 9(1) other than to state that the information they have withheld was collected under those Acts. Neither statute appears to me to be relevant to the application of any of the section 9(1) exemptions on which the Police rely. The sections of *the Canadian Intelligence Security Service Act* which the Police refer to in their confidential and non-confidential representations deal with collection of information by the Canadian Security Intelligence Service (CSIS) and arrangements between CSIS and the federal government. They do not address disclosure of information to municipal police forces, or collection of information by them. Most of the information for which the Police claim the section 9(1) exemption (potentially everything in the records) appears to have been collected by the Police from various sources, and not by CSIS. Moreover, the Police do not explain how these statutes affect the question of confidentiality, and in my review of those statutes I did not see anything indicating that they provide that any of the information at issue in this appeal was received in confidence. The references to these statutes without any effort to explain their relevance are an example of the failure by the Police to explain how the claimed exemptions apply to the records at issue, which section 22(1) of the *Act* requires them to do at first instance as explained above. In addition, it is to be noted that section 42 of the *Act* places an onus on the Police to substantiate the application of the exemptions they claim.

While claiming the section 9(1) exemption for all 659 pages of records and declining my request to be more specific as to which exemptions apply to which information, the Police provided me with no representations as to what specific information falls under section 9(1) other than the information I have identified in italics above and certain confidential representations of a similar nature. Nor did the Police identify which records contain the information regarding attendees or the other information allegedly subject to section 9(1).

Initially, the Police relied on all five subsections of section 9(1). However, in their representations, the Police withdrew their reliance on section 9(1)(b), stating that no documents were provided by the Government of Ontario.

The Police did not withdraw their reliance on section 9(1)(e) (international organizations), but did not identify any such organizations or records, or provide any basis for concluding that they contain information provided "in confidence" by such organizations, let alone "detailed and convincing" evidence to support that conclusion. My review of the records does not, on its own, provide sufficient evidence to support the application of this exemption and I find that it does not apply.

I have found that sections 9(1)(b) and (e) do not apply. It remains to consider sections 9(1)(a), (c) and (d).

As mentioned earlier, the Police withdrew their allegation that information was received from the Ontario Government. Although they did not address whether this includes agencies of that government, their representations do not allege that they are concerned about information received from any agency of that government. Therefore, I have not treated the Police position as a claim under section 9(1)(d) in relation to any agency of a provincial government.

It appears that some records were provided to the Police by the Ontario Provincial Police, an agency of the Ontario Government. However, the Police in their representations on section 9(1) have not identified the OPP as an agency that provided records subject to this subsection or identified any records provided by the OPP as ones of concern under this exemption. Most importantly, I have not been provided with detailed and convincing evidence that such records contain information that was provided "in confidence", a key component of this exemption. Therefore, I have not applied section 9(1)(b) to this exemption to any records provided by the OPP.

Section 9(1)(d) could, however, also apply to information received in confidence from an agency of the government of Canada or the government of a foreign country or state.

The Police relied upon section 9(1) in relation to "information regarding the attendees for the G8 and G20 meetings along with world leaders, heads of state, [and] dignitaries…provided …by an agency of the Canadian Government". They also referred to "information [provided] in confidence to protect the integrity of operational planning and execution of public safety

operations" by "the Royal Canadian Mounted Police, which is an agency of the Government of Canada", but did not identify which records contain this information.

Despite the lack of assistance from the Police, I have reviewed all the records to determine where there might be information that falls under s. 9(1) in relation to the government of Canada, its agencies, and foreign governments.

As indicated above, the only information that the Police specifically identify as subject to s. 9(1) is information identifying "attendees for the G8 and G20 meetings along with world leaders, heads of state, dignitaries". Such information is found at pages 195-200 and 205-213 of the records. Pages 195-200 are a list of G-20 Finance Ministers and Central Bank Governors maintained by the G-20 Secretariat, Ottawa. The e-mail address on page 195 indicates that this is an agency of the Government of Canada. Page 204 is a list of countries that are "G-20/IMFC/DC Members" and the names of their representatives. Pages 205 to 213 are a list of G-20 Finance Ministers and their photographs. Although this document does not state who prepared it, I am satisfied from the representations above that the Police received it from an agency included in section 9(1)(d).

I have tested the assertion of the Police that this information is confidential by checking the Internet to determine whether the identities or photographs of the G8 and G20 attendees were made public before or after the meetings in question, and I found no publication of the identities of the G8 attendees. On November 5, 2001, the Government of Canada published a news release stating that the G20 meeting, a meeting of a committee of the International Monetary Fund and a meeting of a committee of the IMF and the World Bank Group would be held concurrently in Ottawa on November 16, 17 and 18, 2001. The news release identified five of the individuals whose names and images are recorded in pages 205 to 213 of the records as attendees at these meetings. It would appear, therefore, that some of the information about G20 attendees that the Police claim to have received in confidence was, in fact, published by the Government of Canada. Publication of these names appears inconsistent with the claim that it was received in confidence. There are also photographs of these individuals. There are no representations from the Police that the appearance of these prominent individuals is not known to the public, and the fact that they are public figures suggests that their visages are widely published. Therefore, I find that neither their names nor photographs are confidential.

However, having found no publication of the names of other attendees, I accept the representations of the Police that the information about them was received in confidence, since I have no evidence that contradicts these assertions.

I find, therefore, that pages 195-200 and 205-213 are subject to the section 9(1)(d) exemption, with the exception of information identifying five individuals whose participation in the above meetings was announced by the Government of Canada.

Several records contain the names and contact information of representatives of agencies of the federal government. The mere fact that a record contains information *about* an agency of another government or its officials does not mean that this information has been *received* from that agency.

For example, whether an inference can be drawn that the name of a government official or his or her contact information was received from that agency depends upon the context.
Pages 191 to 194 are a backgrounder on the G-20 which states that it was prepared by the Department of Finance Canada, suggesting the possible application of section 9(1)(a). It appears that the Police received it from the Government of Canada. However, neither the representations nor the record state that it was received in confidence and I cannot draw such an inference from the contents of the record itself. Pages 191 to 194 are therefore not exempt under section 9(1).

Pages 201 to 204 are lists of countries and organizations, stating whether they are members or observers of G-20 and certain other organizations identified only by acronyms. It does not appear to be the type of document that the Police would have prepared themselves, and I infer from the nature of this information that the Police likely received the information from some external source. However, from the evidence available to me, I cannot draw an inference that this information was received from another government or government agency included in section 9(1) or that it is confidential. It appears to be the kind of information that would be available to the public. I find that it is not exempt under section 9(1).

Pages 214 and 215 are floor plans for a building. It appears to be a building owned by someone other than the Police, possibly the Government Conference Centre referred to in the Department of Finance news release as one of the locations of the meetings in question. From the nature of the records, it appears likely that the Police received them from a third party. However, I have insufficient evidence to draw an inference that they were provided by a government or government agency included in section 9(1), and they are therefore not exempt under section 9(1).

Page 220 is an organization chart showing the command structure for the Ottawa G20 steering committee, which appears to consist of representatives of several agencies, including the Police. It was prepared by the RCMP, an agency of the Government of Canada, but I cannot conclude from this that any particular information in the chart was received from the RCMP. Rather, the information in the chart appears to have been generated jointly by a group of agencies and then recorded by the RCMP. The membership and structure of the committee appear from a review of the records as a whole to reflect a joint decision taken by several agencies or a decision of the Police into which other agencies had input. It is not marked "confidential". However, as the information was not received from RCMP, it is not necessary to determine whether it is confidential for the purposes of determining whether it is exempt under section 9(1)(d). I find that page 220 is not exempt under section 9(1)(d).

Page 225 is a description of the mandate of the steering committee referred to above. It is marked confidential. It contains the pager and cell phone numbers of officials of the RCMP. I infer that this contact information was provided to the Police either by those individuals or by their agency and was intended to be kept confidential. I find therefore that the pager and cell phone numbers of RCMP officers fall within s. 9(1)(d).

Pages 242 to 245 are a description of communications arrangements for the G20 conference. It does not identify which agency prepared it, but states that it is confidential. Although it describes arrangements involving other government agencies, it is not clear whether these descriptions reflect or reveal information received by the Police from those agencies or joint decisions of the Police and other agencies. However, based on their contents, I draw the inference that paragraphs three and four of page 243 contain information received from the RCMP and therefore I find that these paragraphs fall within s. 9(1)(d).

Pages 255 to 301 are a record entitled "Public Order Unit Operational Plan (OPS-RCMP-OPP-TPS), G-20, November 16th, 17th, 18th, 2001". The entire document is marked "confidential". Pages 260 to 262, 272 (except the last five lines), 284-286, 288, and 291 contain information which I infer, based partly on other information in the same document, was received by the Police in confidence from government agencies that fall within section 9(1)(d) and those pages are therefore subject to the section 9(1)(d) exemption. I am not satisfied that pages 255 to 260, 263 to 271, 273 to 281, 287, 289, 290, and 292 to 301 fall within the section 9(1) exemption.

The record at pages 366-374 is an operational plan. The information in that plan about the capabilities of an RCMP unit found in the second paragraph of p. 367 falls within section 9(1)(d).

Pages 548 to 550 are a list of agencies and personnel with contact information. The heading is "RCMP – Special Services" and the footer on each page is "RCMP Resource List". Based on this as well as the nature of the information in the record I find that the information was received in confidence from the RCMP and these pages fall within section 9(1)(d).

Pages 557 to 592 are an agreement between a federal and municipal agency. It is unclear to what extent the information in the record was received by one of the agencies from the other and to what extent it is not information supplied by one agency to another, but rather is the product of agreements or arrangements worked out between them. There is insufficient evidence to support an inference that this record falls within s. 9(1).

Pages 612 and 613 are a letter from the Department of National Defence to the Police. This record contains information of a confidential nature received by the Police from a federal government department, and therefore falls within s. 9(1)(a).

My review of the records does not indicate that any information is exempt under section 9(1)(c).

Conclusion

In summary, therefore, I find that the following information is subject to the exemption in section 9(1)(a) or (d): pages 195 to 200 and 205 to 213 with the exceptions noted above; the pager and cell phone numbers of the RCMP officers on 225; paragraphs 3 and 4 of p. 243; pages 261, 262, 272 (except for the last five lines), 284 to 286, 288, 291; the last two sentences of the

second paragraph and the first four sentences of the third paragraph of page 367; pages 443 and 444; pages 548 to 550; and pages 612 and 613.

ECONOMIC AND OTHER INTERESTS

Do the discretionary exemptions at section 11(f) and (g) apply to the records?

The Police based their decision to withhold the records from the appellant in part on sections 11(f) and (g) of the *Act*. Section 11 states, in part:

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

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

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

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

In her Mediator's Report, which was provided to the parties, the Mediator confirmed that the application of section 11 remains an issue. The Police have not withdrawn their reliance on this provision; however, the Police made no representations as to why the section 11 exemption applies.

As I mentioned earlier, the Police declined to clarify in their representations which exemptions apply to which information.

In the absence of representations, I am unable to conclude that the records contain "plans relating to the management of personnel or the administration of an institution that have not yet been put into operation or made public" within the meaning of section 11(f). Nor have I been provided with detailed and convincing evidence to substantiate a reasonable expectation of the harm in section 11(g). As noted previously, section 42 of the *Act* provides that where an institution refuses access to a record or part of a record, the burden of proof that the record falls within one of the specified exemptions in the *Act* lies upon the institution. The Notice of Inquiry sent to the Police stated this clearly.

I find that the Police have not met their onus to establish the exemption under sections 11(f) and (g).

LAW ENFORCEMENT

Do the discretionary exemptions at sections 8(1) (c), (e), (i) and (l) apply to the records?

The Police have claimed the exemptions in sections 8(1)(c), (e), (i) and (l). I have already found certain information to be exempt from disclosure under section 9(1). I shall therefore consider whether the remaining information qualifies for exemption under these subsections of section 8.

Section 8(1) states, in part:

> (1) A head may refuse to disclose a record where the disclosure could reasonably be expected to,
>
> (c) reveal investigative techniques and procedures currently in use or likely to be used in law enforcement;
>
> (e) endanger the life or physical safety of a law enforcement officer or any other person;
>
> (i) endanger the security of a building or the security of a vehicle carrying items, or of a system or procedure established for the protection of items, for which protection is reasonably required;
>
> (l) facilitate the commission of an unlawful act or hamper the control of crime.

The term "law enforcement" is used in sections 8(1)(c) and (e), and is defined in section 2(1) as follows:

> "law enforcement" means,

(a) policing,

(b) investigations or inspections that lead or could lead to proceedings in a court or tribunal if a penalty or sanction could be imposed in those proceedings, and

(c) the conduct of proceedings referred to in clause (b)

The term "law enforcement" has been found to apply in the following circumstances:

- a municipality's investigation into a possible violation of a municipal by-law [Orders M-16, MO-1245]
- a police investigation into a possible violation of the *Criminal Code* [Orders M-202, PO-2085]
- a children's aid society investigation under the *Child and Family Services Act* [Order MO-1416]
- Fire Marshal fire code inspections under the *Fire Protection and Prevention Act, 1997* [Order MO-1337-I]

The term "law enforcement" has been found *not* to apply in the following circumstances:

- an internal investigation to ensure the proper administration of an institution-operated facility [Order P-352, upheld on judicial review in *Ontario (Solicitor General) v. Ontario (Assistant Information and Privacy Commissioner)* (1993), 102 D.L.R. (4th) 602, reversed on other grounds (1994), 107 D.L.R. (4th) 454 (C.A.)]
- a Coroner's investigation under the *Coroner's Act* [Order P-1117]
- a Fire Marshal's investigation into the cause of a fire under the *Fire Protection and Prevention Act, 1997* [Order PO-1833]

General Principles

Generally, the law enforcement exemption must be approached in a sensitive manner, recognizing the difficulty of predicting future events in a law enforcement context [*Ontario (Attorney General) v. Fineberg* (1994), 19 O.R. (3d) 197 (Div. Ct.)].

Except in the case of section 8(1)(e), where section 8 uses the words "could reasonably be expected to", the institution must provide "detailed and convincing" evidence to establish a

"reasonable expectation of harm". Evidence amounting to speculation of possible harm is not sufficient [Order PO-2037, upheld on judicial review in *Ontario (Attorney General) v. Ontario (Information and Privacy Commissioner)*, [2003] O.J. No. 2182 (Div. Ct.), *Ontario (Workers' Compensation Board) v. Ontario (Assistant Information and Privacy Commissioner)* (1998), 41 O.R. (3d) 464 (C.A.)].

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

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

Again, the Police did not indicate which of the specific section 8(1) exemptions they have claimed apply to which information, although invited to do so. This makes it difficult to determine how the exemptions might apply. I have kept in mind the principle that the law enforcement exemption must be approached in a sensitive manner, recognizing the difficulty of predicting future events in a law enforcement context.

The non-confidential portion of the representations of the Police on the application of section 8(1) are as follows:

> The records at issue in this appeal are the plans for the G8 which consist of pages 1 to 161 inclusive. The plans for the G20 consist of pages 162 to 659 inclusive.
>
> As is indicated in Section 12 of the Security Intelligence Service Act, the Police have collected, retained and have been in consultation for the purpose of Protecting the Security of Canada.
>
> It is important to realize that the G20 Summit took place in Ottawa only weeks after the 911 [sic] terrorist attack. The focus on international security was at its highest level in history. It is a challenge to work in the profession of Policing to ensure all people live in a comfortable level of security.
>
> Strategic Goals and Operational plans have been designed to ensure safety of the general public, the community at large, all delegates, world leaders, royalty, internationally protected persons, participants, demonstrators, and police personnel.
>
> The confidential discussions took place regarding Operational procedures, mandates, plans for potential hazards, possible risks, probable activities, police intervention, and

deployment of staff that could be needed during the Major events as described in the G8 and G20 events.

This report should be withheld as it is necessary to safeguard the integrity of the confidential work of the Unified Command used to respond to major events …

The G8 in Alberta was in a very secluded and protected area of the province where entry was basically prohibited. The demonstrators and protesters had their demonstrations here in our city due to the political presence and geographical location of the City of Ottawa. It is imperative that consideration be given to the confidentiality of this report and although the Ottawa Police Service is focused and intent on providing all necessary elements for these major events, the daily routine of the Police Service is still in great demand and must be dealt with accordingly. *With the release of this information there would be an increase of activity during major events, necessitating additional Police presence* to keep the peace and to respond to the regular needs of Ottawa citizens.

Media coverage was widespread this week of the Court's decision on a case that involved a great deal of protesters that used an empty residence for squatting in the City of Ottawa during the G8 Summit. Along with the overwhelming necessity to deal with an International event, was the widely publicized story of the Ottawa Police and their problems with the squatters in Ottawa. It is a common problem with Ottawa being the Nation's capital that Ottawa Police must deal with every day problems as well as the additional responsibility of major events. With a limited number of police officers, and severe budget restraints, the Police Service can only do what is reasonably practicable with limited resources.

Not all protesters focus on causing civil disobedience but it is an added strain for Police Services and *some of the protesters would use the information which could be publicly accessible with modern technology today. This information could be used to add to the challenge of policing during these difficult times while doing their normal patrol or providing peaceful mediation for crowds. Regular police patrol could be hampered by individuals wishing to protest by becoming disruptive.* These individuals could be arrested, depending of the severity of their disruptive behavior and could be charged under the Criminal Code of Canada with charges such as Mischief to Property - Section 430 C.C.C., Obstruct Justice Section 129 C.C. C., Cause a Disturbance - Section 175 C.C.C., Assault - Section 267, and/or Section 270 C.C.C., Unlawful assembly - Section 63(l) C.C.C., Engage in Riot - Section 64 C.C.C., Wearing a Disguise - Section 351(2) C.C.C. Uttering Threats - Section 264.1(2) C.C.C. (discretion encouraged) All these charges could and have been laid and tried in criminal court.

The exemptions used in Section 8 of the Municipal Freedom of Information and Protection of Privacy Act are discretionary and the decision to withhold the

> information requested was exercised due to the International Scope of Major Events that occur in our society today. *To disclose the information contained in this report would definitely assist disruptive participants to infiltrate the safety of our society*.
>
> Because of the strict scheduling of time lines and demands on World Leaders, Dignitaries and even Royalty who frequent our City, it is imperative that the meetings and conferences in which they are involved are kept in sync with the schedules in order to permit their return to their posts so they can comply with their own itineraries. *If the Public was aware of the travel plans, site locations and meeting facilities, it would be necessary to have additional traffic control personnel to ensure the timely delivery of the Participants to carry out their scheduled meetings, flights, and other plans that must be followed.* [Emphases added].
>
> Ottawa Fire Service has also been consulted as they too, have to assign personnel, provide equipment, fire fighters, fire prevention, emergency relief, first aid, crowd control and the removal of hazardous materials, to mention a few.
>
> Although the information in this report are not all actual copies of reports received from governments, etc, the information collected is actually provided in confidence to our police Service so their cooperation could be considered in the implementation of this plan.

I find that most of these representations are vague and overly general, even under the lower evidentiary standard imposed by section 8(1)(e), as outlined above. They lack specificity as to the nature of the harm anticipated from disclosure or how disclosure would facilitate this harm, or the harm referred to is not one that is listed in subsections (c), (e), (i) or (l) of section 8(1). By claiming that none of the information is severable (that is, that every sentence in the 659 pages of records is subject to one or more of these exemptions), the Police undermine the credibility of their representations and make it difficult to discern what truly needs to be withheld from what does not.

I have italicized portions of the representations above that provide some guidance as to what the concerns of the Police are in relation to the harms that section 8 is intended to address. In addition to the italicized passages, the confidential representations in the last sentence of the second last paragraph of the first page and the last sentence of the third full paragraph on page 3 of their representations provide some assistance in understanding what harms the Police believe would result from disclosure.

Pages 1 to 65, 76 to 445, and 512 to 618 relate to the policing component of the "law enforcement" definition, as they are all records relating to the activities of the Police and other policing agencies in keeping the peace and ensuring public safety and security during the G8 and G20 meetings. Therefore these records are subject to subsections (c) and (e) of

section 8(1) if their disclosure could reasonably be expected to reveal investigative techniques or endanger any person. Pages 66 to 75 and 446 – 511 contain information about the plans and activities of other organizations such as paramedics, hospitals and fire departments relating to these meetings.

It is clear to me from the representations that the Police are concerned about disclosure of the location of various facilities and events, and I have treated locations as exempt under subsections (e), (i) or (l) where there appears to me to be any reasonable expectation of disclosure resulting in one or more of the harms described in those subsections. However, not all locations fall into this category. I note, for example, that the Government of Canada announced the Government Conference Centre at 2 Rideau Street and the Ottawa Civic Centre at 1015 Bank Street as the locations of the G20 conference before the meeting took place. Accordingly, I have not treated the fact that these venues were used as exempt from disclosure.

I have also treated much of the specific response capabilities of public agencies such as police and emergency response agencies, including equipment, as exempt because of the possibility that this knowledge could be used to create one or more of the harms envisioned in subsections (c), (e), (i) or (l) of section 8.

However, I note that the availability to the Police and use of water cannons, dogs, batons, and tear gas during the G20 conference was reported by the CBC news as well as others. Other published reports state that the Police were equipped with pepper spray, rubber bullets, bean bags, and concussion grenades. I have taken this into account in determining whether certain information about policing capabilities is exempt from disclosure where public knowledge of such capacities affects the potential for any of the harms listed above arising from their disclosure.

In considering the possible application of section 8(1)(c), which relates to investigative techniques and procedures, I have applied the following tests developed in previous orders:

> In order to meet the “investigative technique or procedure” test, the institution must show that disclosure of the technique or procedure to the public could reasonably be expected to hinder or compromise its effective utilization. The exemption normally will not apply where the technique or procedure is generally known to the public [Orders P-170, P-1487].
>
> The techniques or procedures must be “investigative”. The exemption will not apply to “enforcement” techniques or procedures [Orders PO-2034, P-1340].

I have found some information to fall within this exemption, for example, some information relating to communications and surveillance equipment and techniques, and have indicated which information is exempt under this subsection by marking the subsection number on a copy of the record.

In considering the possible application of section 8(1)(e), life or physical safety, I have applied the following tests developed in previous orders:

> A person's subjective fear, while relevant, may not be sufficient to establish the application of the exemption [Order PO-2003].
>
> The term "person" is not necessarily confined to a particular identified individual, and may include any member of an identifiable group or organization [Order PO-1817-R].

I have found some information to fall within this exemption, for example, some detailed information about scheduling and deployment of personnel during events such as the G8 meeting and demonstrations, and have indicated which information is exempt under this subsection by marking the subsection number on a copy of the record.

Findings

Below, I identify which records, or parts of records I have found to be subject to one or more of the section 8(1) (c), (e), (i), or (l) exemptions. As indicated above, I have noted the specific exemptions that apply to each record on a copy provided to the Police with the order.

"G8 Related Demonstrations in the National Capital Region – June 26-27, 2002"

Pages 1 to 82 of the records are a document prepared by the G8 Security and Planning Operations Team, which consisted of representatives of the Police as well as other policing and emergency response agencies. It is entitled "G8 Related Demonstrations in the National Capital Region – June 26-27, 2002". It sets out the plans of a group of government agencies for policing demonstrations expected to take place in Ottawa in June, 2002 in response to a G8 World Leaders Summit that would be hosted by Canada in Kananaskis, Alberta on June 26 and 27, 2002, providing security for officials and buildings, and responding to emergencies. It describes the operations that were to be carried out, the plans to deal with various contingencies, and the agencies and personnel responsible for implementing these plans and operations.

I am satisfied that all of this record falls within the subsections of section 8(1) noted on the individual pages of the record and is therefore exempt from disclosure, except for the following information, which I find not to be exempt under section 8(1): pages 8, 76 and 77 in their entirety; pages 6, 7, 9, 24, 43, 45, 46, 47, 49, 50, 54, 56, and 68 except highlighted information. The highlighted portions are subject to the section 8(1) exemptions noted on a copy of the record.

G8 debriefing report

Pages 83 to 161 are described on page 83 as a report that captures the information provided by personnel who attended a G8 planning and operational debriefing held on July 5, 2002, following the June G8-related demonstrations in Ottawa.

This report contains the following components: A cover memo (pp.83-84); a chart of "issues" and "recommendations" describing what worked well, what could be improved, and recommendations for improvements (pp. 84-87); Appendix A, a set of debriefing notes of one of the groups involved; pages 89-124); Appendix B, described as the "final report" of this debriefing session (pp. 125-139; Appendix C, the debriefing notes of a session of another group, described as this group's "final report" (pp. 140-159); Appendix D, a list of the attendees at the debriefing session of the first group (p. 160); Appendix E, a list of the attendees at the debriefing session of the second group (p. 161).

I find the following pages of this record in their entirety fall within the subsections of section 8(1) noted on the individual pages of the record and are therefore exempt from disclosure: pages 84 to 87; 160, 16.

The following pages are not exempt in their entirety under section 8(1): page 88, 124, 129, 132, 133, 139, 143, 144, 145, 150, 159.

In the remaining pages of this record, I have highlighted the information that *is* subject to section 8(1) exemptions and marked the relevant subsections on a copy. The information in the remaining pages that is *not* subject to any section 8(1) exemptions identified by the Police is not highlighted.

"G20 – Operational Review, Thursday, January 3, 2002"

Pages 162 to 182 are entitled "G20 – Operational Review, Thursday, January 3, 2002". They consist of a list of attendees at a meeting, what appear to be some notes of the meeting, and a chart of comments, recommendations and actions to be taken. The notes describe the purpose of the operational review as "to identify what worked, did not work (in policing, providing security and responding to emergencies at the G20 meeting) and recommendations".

I find the following pages of this record in their entirety fall within the subsections of section 8(1) that are noted on the individual pages of the record and are therefore exempt from disclosure: pages 162, 167, 168,169, 170, 175.

Certain parts of the remaining pages of this record are exempt under section 8(1) (e) and (l). The portions that are exempt are highlighted and the applicable subsections are noted on a copy of these pages. The information in the remaining pages that is *not* subject to any section 8(1) exemptions identified by the Police is not highlighted.

I find that there are no pages that are entirely not exempt under section 8(1).

Operational plans for G20 conference

Pages 183 to 659 are an untitled document with a table of contents that lists 37 sections. It sets out the background to the G20 conference to be held in Ottawa on November 16, 17 and 18, 2001 and the various plans for policing, security and emergency response developed by the Police and other agencies for implementation during this conference.

As indicated above, pages 195 to 200, part of 204, and 205 to 213 are exempt from disclosure under section 9, and therefore their status need not be considered under this exemption.

I find the following pages of this record in their entirety fall within the subsections of section 8 noted on those pages, and are therefore exempt from disclosure: pages 214, 215, 219, 220, 222, 223, 225, 227, 228, 230 to 233, 235 to 237, 239, 240, 242 to 246, 249, 253, 260 to 268, 272, 277 to 281, 283 to 301, 314 to 316, 318, 320 to 343, 345 to 348, 351, 356 to 361, 363, 367 to 374, 378 to 380, 383, 385 to 394, 397, 398, 402 to 404, 410 to 413, 415, 417, 419, 421, 424 to 428, 440, 441, 444, 448 to 465, 467, 471 to 479, 485 to 488, 494 to 511, 516, 519 to 521, 523 to 529, 532, 533, 535 to 541, 548 to 551, 574 to 576, 594 to 599, 612,613, 617-619, 621 to 623, 625, 627, 629, 630, 632 to 646, 650, 653 to 655, and 657 to 659.

The following pages are entirely not exempt: 183, 186, 187, 191 to 194, 201 to 204, 216 to 218, 221, 224, 226, 229, 234, 238, 241, 247, 250, 252, 255, 256, 257, 275, 282 (blank page), 302, 303, 305 to 309, 312, 313, 344, 349, 354, 355, 362, 364 to 366, 375, 382, 395, 396, 401, 406, 407, 414, 416, 418, 420, 422, 429, 434, 436, 442 (blank page), 443, 445, 446, 466, 468, 480 to 484, 489 to 493, 512, 515, 517, 530, 531, 547, 552, 553, 557 to 573, 577 to 589, 593, 600, 601, 603, 614, 616, 620, 624, 626, 628, 631 and 656.

In the remaining pages of this record, I have highlighted the information that *is* subject to the section 8(1) exemptions noted in the margin. The information on those pages that is *not* subject to these exemptions is not highlighted.

PUBLIC INTEREST OVERRIDE

Is there a compelling public interest in disclosure of the records that clearly outweighs the purpose of the section 9(1) exemption?

General principles

Section 16 states:

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

Section 16 does not apply to the records or parts I have found to be exempt under section 8.

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

Compelling public interest

In considering whether there is a "public interest" in disclosure of the record, the first question to ask is whether there is a relationship between the record and the *Act*'s central purpose of shedding light on the operations of government [Order P-984]. Previous orders have stated that in order to find a compelling public interest in disclosure, the information in the record must serve the purpose of informing the citizenry about the activities of their government, adding in some way to the information the public has to make effective use of the means of expressing public opinion or to make political choices [Order P-984].

A public interest does not exist where the interests being advanced are essentially private in nature [Orders P-12, P-347, P-1439]. Where a private interest in disclosure raises issues of more general application, a public interest may be found to exist [Order MO-1564].

A public interest is not automatically established where the requester is a member of the media [Orders M-773, M-1074].

The word "compelling" has been defined in previous orders as "rousing strong interest or attention" [Order P-984].

Any public interest in *non*-disclosure that may exist also must be considered [*Ontario Hydro v. Ontario (Information and Privacy Commissioner)*, [1996] O.J. No. 4636 (Div. Ct.)].

Purpose of the exemption

The existence of a compelling public interest is not sufficient to trigger disclosure under section 16. This interest must also clearly outweigh the purpose of the established exemption claim in the specific circumstances.

The representations of the parties

As indicated above, the appellant's explanation of the public interest in disclosure of these records is as follows:

> The citizens of Ottawa are entitled to know about the police's emergency plans and past actions in Ottawa. To do otherwise renders such actions unaccountable.

> Such plans need to have the confidence of the public that cannot be expected to happen with absolutely no records forthcoming.

The Police provide the following representations on this issue:

> It is the opinion of this Police Service that there is not a compelling public interest in the disclosure of this information. Since 911 (sic), G8 and G20, there have not been requests made for this type of information, other than the meetings that have taken place with the Media and the Ottawa Police Media Office.
>
> When you consider that there are approximately 30 million Canadians, and only a few thousand protesters, I cannot accept the Public Interest outweighs the safety and security of a Nation.
>
> At the time this request was received it was suggested that a meeting be held between the requester and the Executive officer in our Emergency Operations Section at which time a meeting was arranged and was attended by a member of the Media who is the client of the requester. It is the opinion of the Ottawa Police that the public have a right to know that their safety and security is of paramount importance. During the meeting, information was shared and discussions took place, however, at no time was it permitted for copies or documents to be shared with the client. The Ottawa Police Service supports transparency, instills public confidence in its ability to protect the public and to ensure safety for all.
>
> Information sharing without the complete release of this document or information could jeopardize the deployment of this Service as well as the other agencies involved in the Unified Command. With bits and pieces of this document being released it would most likely be misinterpreted and the wrong message would be sent to the public.
>
> It goes without saying that we cannot detect or even begin to imagine the terror that is contemplated or planned and we will never be able to protect society from all evil, but it is imperative that society has plans in place to protect the innocent to the best of our ability. It would be a grave decision to release information that could assist in terrorism or harmful actions and to know that we have not all done our best to protect society.

Analysis and finding

As indicated above, section 16 does not apply to records exempt under section 8. Therefore, it cannot apply to the records I have found to be exempt under that section. I have not found any records to be exempt under section 11. Therefore, the only information that qualifies for consideration under section 16 is the information I have found to be subject to the section 9(1) exemption.

In Order P-241, former Commissioner Tom Wright commented on the burden of establishing the application of section 23 of the *Freedom of Information and Protection of Privacy Act*, the equivalent of section 16 of the *Act*:

> The *Act* is silent as to who bears the burden of proof in respect of section 23. However, Commissioner Linden has stated in a number of Orders that it is a general principle that a party asserting a right or duty has the onus of proving its case. This onus cannot be absolute in the case of an appellant who has not had the benefit of reviewing the requested records before making submissions in support of his or her contention that section 23 applies. To find otherwise would be to impose an onus which could seldom if ever be met by the appellant. Accordingly, I have reviewed those records which I have found to be subject to exemption, with a view to determining whether there could be a compelling public interest in disclosure which clearly outweighs the purpose of the exemption.

I agree with these comments and I have followed the procedure advocated by former Commissioner Wright by conducting an independent review of the exempted records.

I agree with the appellant that there is a public interest in disclosure of the information that I have found to be exempt under section 9(1). The information relates to the Act's central purpose of shedding light on the operation of government and its disclosure would serve the purpose of informing the citizenry about the activities of their government. I find that there is a compelling public interest in knowing whether emergency plans such as those revealed in the exempt records are effective in protecting the public. In fact, the Police themselves acknowledge that "the public have a right to know that their safety and security is of paramount importance".

In light of concerns raised in the media about how the Police carried out their plans, I find that there is also a strong public interest in this particular case in knowing how the police balanced public safety and security with protection of civil liberties in carrying out the portions of these plans that involved intelligence, crowd control and handling of demonstrations.

Some of the concerns expressed by the Police appear exaggerated, based on the representations and the contents of the records themselves. For example, I see no evidence that it is necessary to release either all the information or none of it because releasing part of it would result in the public misinterpreting it, as the Police claim. However, I have addressed this by exempting only certain parts of the records.

Weighing the interest in disclosure against the purpose of the exemption claim, which can be characterized as ensuring public safety and security, I cannot find that the public interest in disclosure clearly outweighs the purpose of the exemption claim in these particular circumstances in regard to the information found exempt under section 9(1).

Accordingly, I find that section 16 does not apply to these records.

EXERCISE OF DISCRETION

Did the institution exercise its discretion under section 8? If so, should this office uphold the exercise of discretion?

General principles

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

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

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

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

Analysis

In determining whether an institution has exercised its discretion in good faith, the institution's overall pattern of conduct in its dealings with the requester/appellant and this office may be relevant. The fact that an institution claims several exemptions for a large number of records and an adjudicator finds that these claims are not warranted does not, in itself mean that the institution was acting in bad faith. However, the manner in which the institution conducts the process may provide evidence of whether it was acting in good faith.

In this case, the appellant raised in his letter of appeal the question of whether the entire body of records was exempt or whether parts of it could be severed. The Notice of Inquiry sent to the Police by this office stated, "Section 4(2) of the *Act* obliges the institution to disclose as much of any responsive record as can reasonably be severed without disclosing information which is exempt. The institution is asked to consider whether there is any undisclosed information which should be disclosed pursuant to section 4(2)…".

The Police continued to take the position that all the information was exempt despite the fact that some of the information clearly was innocuous and clearly not within any of the exemptions. Examples are pages 186, 191 to 194, 221, 375, 406, 407, 414, and 554 to 556 (other than the identifying information at the top of the page, which I have found to be exempt).

Although asked to specify which exemptions applied to which information, the Police did not do so. The Police relied on provisions of statutes that, on their face, clearly did not apply to the information in question. They made no attempt to substantiate some of their claims. For example, they claimed section 11, but made no representations to support this. They claimed an exemption under section 9 relating to information received from the RCMP without specifying what information came from it.

It is clear that the Police claimed exemption for all the records without making any effort to determine whether any of the information in them fell outside the exemptions. They have indicated in their representations that they were unwilling to release any of the information not because it fell within an exemption, but because severing might result in the public misinterpreting the information disclosed, which is clearly not the case in relation to much of the withheld information.

This raises questions as to whether the Police made any attempt within the class of information that was subject to the discretionary exemptions to distinguish between information that should be withheld to satisfy some interest recognized by the *Act* and information which could be disclosed.

Nevertheless, having reviewed the information that I have found subject to exemption under section 8, I do not find that the Police fettered their discretion or acted in bad faith in exercising their discretion not to disclose that particular information. I therefore uphold their exercise of discretion to withhold the information I have found to be exempt under section 8(1).

ORDER:

1. I order the Police to disclose in their entirety pages 2, 3, 4, 8, 76, 77, 88, 183, 186, 187, 191 to 194, 201 to 204, 216 to 218, 221, 224, 226, 229, 234, 238, 241, 247, 250, 252, 255, 256, 257, 275, 282 (blank page), 302, 303, 305 to 309, 312, 313, 344, 349, 354, 355, 362, 364 to 366, 375, 382, 395, 396, 401, 406, 407, 414, 416, 418, 420, 422, 429, 434, 436, 442 (blank page), 443, 445, 446, 466, 468, 480 to 484, 489-493, 512, 515, 517, 530, 531, 547, 552, 553, 557 to 573, 577 to 589, 593, 600, 601, 603, 614, 616, 620, 624, 626, 628, 631 and 656 by **November 24, 2005**.

2. I order the Police to disclose the portions of pages 1, 6, 7, 9, 24, 43, 45-47, 49, 50, 54, 56, 68, 83 to 87, 89 to 161, 163 to 166, 169 to 174, 176-182, 184, 185, 188-190, 196, 197, 199, 200, 205 to 207, 209, 212, 213, 248, 251, 258, 259, 269-271, 273-4, 276 to 278, 304, 317, 319, 350, 352-353, 376, 377, 379 to 381, 384, 400, 405, 408, 409, 423, 430-433, 435, 437-439, 468-471, 485, 486, 513, 514, 518, 522, 534, 542-546, 554-556, 602, 604-611, 615, 647, 648, 649, 651 and 652 that are *not* highlighted on a copy of those pages which I have provided to the Police with a copy of this order by **November 24, 2005**.

3. I uphold the decision of the Police not to disclose the remaining information.

4. To verify compliance with the provisions of this order, I order the Police to provide me with a copy of the records that are disclosed to the appellant pursuant to provision 1, upon my request.

Original signed by: November 2, 2005
John Swaigen
Adjudicator