



**Information and Privacy  
Commissioner/Ontario**

**Commissaire à l'information  
et à la protection de la vie privée/Ontario**

# **INTERIM ORDER MO-2191-I**

## **Appeal MA06-316-2**

### **Ottawa Police Services Board**



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I am issuing this Interim Order in Appeal MA06-316-2 to address issues related to the scope of the appellant's request and the adequacy of the decision letters sent to the appellant by the Ottawa Police Services Board (the Police).

## **NATURE OF THE APPEAL:**

### **Background**

#### **Appeal MA06-316-1**

In April 2006, the requester submitted a request to the Police under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for access to "all police records" containing his own personal information. The Police subsequently sought clarification from the requester as to whether or not he was seeking "copies of [his] own information to review." In a response letter dated May 19, 2006, the requester wrote:

... It was my original intent to request access to all personal files. Along with any written documentation you have in this regard. I was also hoping to secure transcripts of any personal information you may have on other media as well.

In a letter dated May 25, 2006, the Police informed the requester that because "you are only trying to gain access to your own personal information ... you can obtain your own information by purchasing a copy of the reports through our Records Section." The Police provided contact information about the Records Section and returned the fee submitted by the requester. This letter contained no other information.

The requester's efforts to obtain information through the Records Section were unsuccessful. Consequently, the requester submitted another request to the Police on July 8, 2006, which read:

Pursuant to our previous correspondence, I am writing to formally request access to my police documents through the provisions afforded me under present Freedom of Information Act legislation. Apart from a complete copy of my police file, I wish to also obtain copies of any other information pertaining to me that you might have on hand, including that recorded on other media as well. Of particular interest are documents relating to an incident that occurred at [a specified location] in Ottawa during the fall of 1999. In conjunction with this, I would like to obtain copies of any written consent forms the Ottawa Police may have used to access my personal information during the course of their investigations.

Enclosed you will find a money order in the amount of \$5.00 as was previously requested. Due to my present financial situation however, I respectfully request that any additional charges be waived.

The Police responded to the requester's July 8<sup>th</sup> letter on August 29, 2006, stating only the following:

Your request for access to personal information was received on August 25<sup>th</sup>, 2006 and is being returned to you. I have also enclosed a copy of the decision letter, dated May 25<sup>th</sup>, 2006, from your previous request which explains your options to obtain copies of your own information.

I have also checked our computer system with negative results to see if you may have been involved with this Service in any way, other than our general police reports.

The requester then contacted this office. In a September 5, 2006 letter, the requester stated:

While much of the information I require could be obtained by these means [through the Records Section], doing so is cost prohibitive and does not ensure that I will receive all the information to which I am entitled. Therefore, I would prefer to obtain these documents through official channels, if at all possible. Owing to the difficulties I have already experienced, I fear that I will not be able to do this without your intervention. Consequently, I have written to formally request your assistance in this matter.

Along with a complete copy of my police file, I was hoping to obtain an index of the personal information data banks, a description of the contents of each, and a copy of any tags documenting the inconsistent use of the information within them. (I believe provisions for these requests exist under section 34 and section 35 of the *Act*).

In addition, the appellant described how he believed his appeal could be resolved, in part, as follows:

... In requesting a complete copy of my police file, Ottawa Police Services is obligated to inform me if information is withheld due to exemptions under the *Act*. In obtaining this information by the alternative means the Ottawa Police Services insist I use [the Records Section], I no longer am informed of exemptions and no longer retain a right to appeal them...

This office opened Appeal MA06-316-1 as a "Deemed Refusal" appeal. Following discussion between staff from this office and Police FOI staff, the Police agreed to issue a decision to the appellant in accordance with the requirements of the *Act*.

In a letter dated September 21, 2006, the Police informed the requester that access to the requested information was denied under section 15(a) of the *Act* on the basis that the record or the information contained in the record has been published or is currently available to the public.

The letter included information about accessing the records, which were not specifically identified, through the Records Section. The appellant was advised to contact a specific individual in the Records Section to discuss waiver of any associated fees that may be charged to him for obtaining access through the Records Section. Finally, the appellant was also advised that he could request a review of the decision through this office. Appeal MA06-316-1 was closed upon the issuance of the decision letter.

### **Appeal MA06-316-2**

The requester, now the appellant, appealed the September 21, 2006 decision and Appeal MA06-316-2 was opened.

During the mediation stage of this appeal, the Police submitted a list of the categories of documents maintained in its record-holdings and their retention periods to this office. During this same period, discussion with the appellant resulted in clarification of his request, which the mediator conveyed to the Police in a letter dated November 29, 2006. The mediator wrote:

1. [The appellant] stated that in the fall of 1999 (he is not aware of the exact date) he was involved in an incident where he was removed by the Ottawa Police from a [specified location] in the City of Ottawa. He is requesting all Police records related to the matter, including officer's notes, witness statements, incident reports, and medical reports. He stated he would like "anything the police have."
2. He stated he is requesting a copy of any complaint or complaints made by an individual or an organization against him to the Ottawa Police. He did not specify a date and stated that [the] search should be as far back as possible.
3. He is requesting a copy of all records related to a complaint that he made to the Police [Professional] Standards [Section] of the Ottawa Police in the spring of 2000. He could not specify a date and he did not know the names of the officers involved.

The Police responded to the mediator's letter by sending the appellant a letter dated December 20, 2006. In response to the first part of the mediator's summary, the Police informed the appellant that:

Our records do not have an incident from that date with the descriptors you provided. Without the police report we cannot identify the attending officers to ask for their notes. We do not usually require medical information from the health professional for Police Reports unless it is in the case of a murder, suicide or a motor vehicle collision where serious injuries or death have occurred.

Our retention policy is strictly adhered to and was explained to you during our earlier correspondence. If for some reason, medical information had been copied

and retained for the police reports, it would also have been destroyed when the report/record reached its destruction date.

With respect to part two of the clarified request relating to “any complaint or complaints made by an individual or an organization against him to the ... Police”, the Police stated:

... [You] would like to have your own information from a report(s) held by the [Police] where you have been the subject of a complaint... Your personal information can be purchased with proper identification from our Service by attending the Central Division...

Finally, with respect to the third part of the mediator’s clarification of the scope of the request regarding a complaint the appellant made to the Professional Standards Section, the Police replied that they:

... do not have access to their records and these records are kept for employment purposes and they do not fall under the *Act*, therefore, cannot be accessed through the Municipal Access to Information Act.

The appellant accepted the explanation that records held by the Professional Standards Section are not available under the *Act* and informed the mediator that he would not pursue access to any records related to complaints he made against the Police. However, the appellant maintained that he should be able to obtain access to the other information requested under the provisions of the *Act* and expressed an intention to proceed with those components of his appeal.

The appellant wrote to the Police again on January 5, 2007. The following week, both parties sent a copy of the January 5<sup>th</sup> letter to this office. Along with the copy of the appellant’s letter forwarded by the Police was a copy of the Police’s Personal Information Bank index which had been sent to the appellant with the December 20, 2006 decision letter.

In the appellant’s January 5, 2007 letter, he describes his previous efforts to obtain information from the Police and continues by stating:

Despite outside intervention however, you continue to deny my request without adequate explanation.

... I have elected to resubmit my request for a third time. I formally ask that you poll all police databanks individually for the presence of information relating to me. Following this, I ask that you then provide me with a detailed report of your findings.

This report should include:

1. The name and description of the data bank being polled.

2. The number of pages of documents each databank contains.
3. The nature and use of the information of each document found.

In the event that a databank does not contain information, I respectfully request that the fact be recorded in your report as well. Should you for any reason wish to deny access to any of the information you have found, I also ask that I be provided with a suitable explanation for its exclusion.

The Police did not issue a decision letter to the appellant in response to his January 5<sup>th</sup> letter, but confirmed in conversation with the mediator that the Police intended to rely solely on section 15(a) of the *Act* to deny access.

No further mediation was possible and this matter moved to adjudication where it was assigned to me to conduct an inquiry.

I sent a Notice of Inquiry to the Police initially to seek representations on the issues. I asked the Police to provide submissions on several preliminary issues in addition to the application of the section 15(a) exemption to the identified records, and the manner in which the Police exercised their discretion in claiming it. I specifically requested that the Police provide representations to address the following:

- the Police's interpretation of the scope of the appellant's request;
- the details of the Police's search for records responsive to the request; and
- the identification of records responsive to the request and at issue in the appeal, given that no records had been identified, nor any copies provided to this office, as of the date of the Notice of Inquiry.

In response to the Notice, I received representations from the Police, dated March 5, 2007. Upon my review of the representations, I concluded that I required additional information from the Police before determining how to proceed with my inquiry. I asked an Adjudication Review Officer from this office to contact the Police to discuss several matters and to draw their attention to questions which had been included in the initial Notice of Inquiry, but not answered in the representations.

I offered the Police an opportunity to provide me with supplementary written representations on the issues and questions in the initial Notice of Inquiry, and I received supplementary representations from the Police on April 18, 2007.

### **Circumstances of this Interim Order**

Enclosed with the representations were 61 pages of records with a note attached which stated: "Copies of reports available to the appellant. I have highlighted the information that would not

be disclosed to the appellant.” The Police did not, however, indicate what exemptions they were relying upon to sever the information.

Given the information available to me, I have decided that an Interim Order is required in this appeal. In my view, it is important to provide some clarity around the preliminary issues respecting the scope of the appellant’s request and the adequacy of the Police’s response to it, including the decision letters, under the *Act*.

To be clear, this Interim Order will not address the other issues before me in this inquiry, namely the adequacy of the search for responsive records, the possible application of section 15(a) of the *Act* to those records, the exercise of discretion in relation to section 15(a), and any other issues, including exemptions claimed, outstanding as a result of compliance with this Interim Order. I will address these other issues in due course.

## **DISCUSSION:**

### **SCOPE OF THE REQUEST/RESPONSIVENESS OF RECORDS**

Section 17 of the *Act* imposes certain obligations on requesters and institutions when submitting and responding to requests for access to records. This section states, in part:

- (1) A person seeking access to a record shall,
  - (a) make a request in writing to the institution that the person believes has custody or control of the record;
  - (b) provide sufficient detail to enable an experienced employee of the institution, upon a reasonable effort, to identify the record; and

. . . . .
- (2) If the request does not sufficiently describe the record sought, the institution shall inform the applicant of the defect and shall offer assistance in reformulating the request so as to comply with subsection (1).

It is a well-settled principle that institutions should adopt a liberal interpretation of a request, in order to best serve the purpose and spirit of the *Act*. Ambiguity in the request should be resolved in the requester’s favour [Orders P-134, P-880]. Furthermore, previous orders of this office have established that to be considered responsive to the request, records must “reasonably relate” to the request [Order P-880].

## **Background**

When inviting representations from the Police on the scope of the appellant's request, I framed the issue as follows:

In view of the various letters from the appellant outlined in the preceding pages of this Notice, including clarification provided through this office, I am asking the Police to provide representations on their interpretation of the scope of the appellant's request. Please explain exactly what is at issue, in your view, and the position taken by the Police with respect to each item.

It should be noted that the outline of the history of this appeal referred to in the above paragraph appeared in the Notice of Inquiry in essentially the same form as in the opening segment of this Interim Order.

## **Representations of the Police**

In their initial representations, dated March 5, 2007, the Police stated that the appellant was seeking:

... all his personal information held by Ottawa Police, including information that the Police Service collected from various agencies about him. He also requested we provide him with information from all media held by the Ottawa Police Service.

The Police refer to several telephone conversations with the appellant that took place following receipt of the original request, which were evidently carried out in an effort to understand what records were of interest to the appellant and to discuss with him what records may exist.

In their supplementary representations received on April 18, 2007, the Police reiterate their interpretation of the scope of the appellant's request:

The appellant made a request to this Police Service for any and ALL records that contain his own information [emphasis in original].

I have attached a copy of his letter of May 19<sup>th</sup>, 2006, to confirm what records he is searching for.

The Police also indicated in both sets of representations that the request should be construed to include copies of reports from the Police's Professional Standards Section for complaints filed by the appellant in the past. However, in the supplementary representations received on April 18<sup>th</sup>, the Police state that no attempt has been made to verify what records may be held by the Professional Standards Section because such records would be "exempt" from the *Act* in any event.



## **Analysis and Findings**

I have carefully reviewed the representations provided by the Police in response to the February 15<sup>th</sup> Notice of Inquiry and I have specifically considered them in the broader context of the history of this appeal and the earlier appeal, Appeal MA06-316-1. I have also reviewed the appellant's correspondence with the Police and to this office.

The Police take the position that the appellant's request is as framed in his May 19<sup>th</sup>, 2006 letter and they have provided me with another copy of this letter in support of this position.

However, the appellant has provided additional clarification to the Police about his request by submitting two more letters with additional detail and instruction since that time. I also take note of the efforts of a mediator appointed by this office to provide assistance to the parties in clarifying the request by corresponding with the Police between the second and third of the appellant's letters to the Police.

While it appears to be the case that there is some agreement between the parties as to the terms of the appellant's request, it is equally clear, in my view, that there is some ambiguity about the scope and the process that would benefit from some further clarification in this Interim Order.

The Police and the appellant share an obligation under section 17 of the *Act* in relation to the formulation of a request. In this appeal, I commend the Police for their efforts to communicate with the appellant to discuss his request and attempt to determine the information of particular interest to him. However, the Police's response to some aspects of the appellant's attempts to provide clarification has, in my view, led to an unnecessary complication in the process.

In my view, the Police initially applied an appropriate interpretation to the appellant's request; that is, to include any and all information pertaining to him in their record holdings. I find, however, that the Police then proceeded to take steps that effectively narrowed the scope of the appellant's request unilaterally. First, and without identifying the records that had been located as responsive, the Police insisted that the appellant make use of an alternative avenue of obtaining information – the Records Branch – that only holds certain types of records. Second, the Police unilaterally excluded – and did not even search for – records from the Professional Standards Section by presenting as a foregone conclusion the unavailability of those records under the *Act* to the appellant.

These two points will be addressed in greater detail in the next section of this Interim Order dealing with the adequacy of the Police's decision letters, but it is important to state them here because they have, in my view, inhibited the identification of responsive records by the Police.

In light of my findings on the unilateral narrowing of the scope of the appellant's request by the Police, this Interim Order will serve to confirm the original and appropriate interpretation of the appellant's request, which will serve to guide the Police in this appeal.

I find that the appellant's request clearly contemplates the identification of all records pertaining to him in the Police's record holdings, including those which may be located in the Professional Standards Section. Without limiting any future consideration of the adequacy of the Police's searches in this appeal, I will order the Police to expand their search to include any records held by the Professional Standards Section.

I will now proceed with my review and findings with regard to the adequacy of the Police's decision letters as this issue may have implications for the Police's response to the expanded search I have required through this Interim Order.

### **ADEQUACY OF DECISION LETTERS**

A review of the circumstances of this appeal suggested that there was some question as to whether or not the Police's written responses to the appellant could be construed as adequate decision letters for the purposes of the *Act*.

Both sections 19 and 22 of the *Act* are relevant to my determination of this issue. The relevant portions read:

19. Where a person requests access to a record, the head of the institution to which the request is made or if a request is forwarded or transferred under section 18, the head of the institution to which it is forwarded or transferred, shall, subject to sections 20, 21 and 45, within thirty days after the request is received,

- (a) give written notice to the person who made the request as to whether or not access to the record or a part of it will be given; and
- (b) if access is to be given, give the person who made the request access to the record or part, and if necessary for the purpose cause the record to be produced.

22. (1) Notice of refusal to give access to a record or part under section 19 shall set out,

- (a) where there is no such record,
  - (i) that there is no such record, and
  - (ii) that the person who made the request may appeal to the Commissioner the question of whether such a record exists; or
- (b) where there is such a record,

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

In order to assist institutions in preparing a decision letter that meets the legislative requirements of the *Act*, the Commissioner's office issued a revised *IPC Practices* publication in September 1998, entitled "Drafting a Letter Refusing Access to a Record". This document, which was sent to all provincial and municipal institutions, sets out the components of a proper decision letter. I attached a copy of this particular *IPC Practices* to the Notice of Inquiry sent to the Police.

In the initial Notice of Inquiry, I posed several specific questions to the Police respecting whether the four letters sent to the appellant last year on May 25<sup>th</sup>, August 29<sup>th</sup>, September 21<sup>st</sup>, and December 20<sup>th</sup>, constituted adequate decision letters in accordance with the requirements of sections 19 and 22 of the *Act*. I asked the Police to provide submissions on the issue, "with particular reference to the relevant provisions of the *Act*, the specific history of this appeal, the *IPC Practices* and any relevant IPC orders."

### **Representations**

The Police did not address the issues raised nor did they answer the questions posed in the Notice of Inquiry. In addressing the adequacy of the four decision letters, the Police put forth the same position in both the initial March 5, 2007 representations and the supplementary representations received on April 18<sup>th</sup>:

It is the opinion of this Service that we have supplied adequate information to the appellant for him to obtain his own information under Section 15 of the *Act*.

The Police provide some additional details of what they assert they told the appellant during telephone conversations about the process for obtaining records through the Records Branch. Some of the detail is mixed in with representations on the section 15(a) exemption, which is not being addressed in this Interim Order, but notably, the Police state:

Of course some restrictions may apply under the *Act*, but if the police report is completed, closed, no charges outstanding, no young offender information, etc, the information is provided to the requester if conditions are met. This was explained to the appellant ...

We must take into consideration that each time a record is requested, it must be reviewed by the Freedom of Information Staff to ensure it can be released under the *Act*...

As explained in two of the decision letters, Section 15 of the *Act* indicates he can obtain his own information by following the steps outlined in the decision letter.

These representations make no reference to what the “restrictions” may be, or what may prevent the release of a record under the *Act* upon review by “Freedom of Information Staff”.

Although I have not yet invited representations from the appellant during this inquiry, I am satisfied that the appellant’s position and his perspective regarding the responses he received from the Police to his request are made reasonably clear through his communication with this office and the Police to date. I am satisfied, for example, that the appellant has clearly expressed an intention to assert his right to know the basis upon which access to any of the information in the responsive records was denied. The following excerpt from the appellant’s Appeal Form is relevant:

... In requesting a complete copy of my police file, Ottawa Police Services is obligated to inform me if information is withheld due to exemptions under the *Act*. In obtaining this information by the alternative means the Ottawa Police Services insist I use [the Records Section], I no longer am informed of exemptions and no longer retain a right to appeal them...

As alluded to in the previous section of this Interim Order dealing with the scope of the appellant’s request, the Police responded to the component dealing with records from the Professional Standards Section by stating:

Orders #MO2131 and M-927 have been issued recently which support our decision to withhold information contained in the Investigations by our Professional Standard[s] Section.

In the supplementary written representations received on April 18<sup>th</sup>, the Police repeat this precise statement regarding responsive records from the Professional Standards Section. No records are identified and the Police admit that no attempt was made to “verify” their possible existence. There is no claim, or reference, in either set of representations to section 52(3) of the *Act*, the exclusion for Labour Relations and Employment Records.

### **Analysis and Findings**

The process for responding to access requests is set out in considerable detail in the *Act*, as well as in various guidelines established and circulated to institutions, including the Police, by this office. At the very least, none of the written communications of the Police have constituted an adequate decision letter for the purposes of the *Act*. Furthermore, in my view, the approach taken

by the Police in responding to the appellant's request and his appeal has not been in accordance with the procedures set out in the *Act* or the Practice Directions prescribed by this office. The inadequate decision letters, combined with a lack of clarity in the Police's response, has made achieving any meaningful progress toward resolution of the definition of this appeal difficult. It has also, in my opinion, led to an unnecessary duplication of effort on the part of the Police and the appellant.

In making my findings, I was mindful that, at all relevant times, the Police had a copy of the *IPC Practices* titled "Drafting a Letter Refusing Access to a Record". This document describes the types of information an institution should include in its decision, including, in part:

- an index of records;
- a document number assigned to each record and a general description of each record;
- an indication of whether access has been granted or denied for each record or part of a record;
- the specific provision of the Act for which access has been denied to each record or part of a record;
- an explanation of why the provision applies to each record or part of a record;
- the name and position of the person making the decision; and
- a paragraph informing the requester that he or she can appeal the decision to the Commissioner's office.

In spite of this, it remained unclear even at the start of the adjudication stage of this appeal what records had been identified as responsive to the appellant's request. For example, none of the letters sent to the appellant by the Police contained an adequate identification, description or itemization of the responsive records.

In the first decision letter sent to the appellant on May 25, 2006, the Police informed the appellant that he could "obtain [his] own information by purchasing a copy of the reports through our Records Section". There is no elaboration or elucidation of what "the reports" might be, or consist of, and the only other information is the contact information provided for the Records Section. I find that this letter does not constitute an adequate decision letter under the *Act*.

The appellant wrote again to the Police on July 8, 2006, requesting access to records described therein "through the provisions afforded me under present Freedom of Information Act legislation." The Police's response to the appellant came in the form of a brief letter dated August 29<sup>th</sup> which enclosed a copy of their May 25<sup>th</sup> letter and added the following: "I have checked our computer system with negative results to see if you may have been involved with this Service in any way, other than our general police reports." No further information or description of the reports is provided. I find that this letter also does not constitute an adequate decision letter under the *Act*.

The third letter to the appellant from the Police was sent on September 21, 2006 at the behest of this office as the previous two letters were not considered to have been issued in accordance with the requirements of the *Act*. The September 21<sup>st</sup> letter similarly lacked any meaningful description of the records identified as responsive although it contained many of the elements expected of a decision letter issued in accordance with the *Act*, including reference to section 15(a) as the basis for denying access, a reiteration of the information about the alternative means of access through the Records Section, the person responsible for the decision and the right to request a review through this office. However, because it does not adequately identify the responsive records, I find that this letter is not an adequate decision letter for the purposes of the *Act*.

The final letter on record sent by the Police to the appellant is dated December 20, 2006 and it is their response to the clarification of the request provided through the mediator from this office. Again, no itemization or description of the records identified as responsive is included in the letter. More of the content of this letter appears in the introductory section of this Interim Order and is not outlined here, but I find that it too does not meet the requirements of an adequate decision letter set out in the *Act*.

It is worth mentioning, in my view, that even when specifically asked in my initial Notice of Inquiry to describe what records had been identified in response to the request, the Police simply responded by stating “the only responsive records were several occurrence reports”. Only following additional discussion with the Adjudication Review Officer did the Police finally provide this office with copies of records which they evidently consider responsive to the request. These records remain without identification by numbering or description and no index was provided.

The appellant is entitled to receive a statement of the Police’s response to his request that satisfies the requirements of section 19 and 22 of the *Act*. That he has not received such a response is particularly striking in the circumstances, given his clearly evinced intention to pursue such a response and assert his access and appeal rights under the *Act*.

In addition to my finding that none of the letters contain an adequate identification or description of the records responsive to the request, I am also struck by the application of the exclusionary provision of the *Act* to responsive records that may be held by the Professional Standards Section. Section 52(3) of the *Act* provides an exclusion for labour relations and employment records which, if found applicable (after due consideration of the issue by the Commissioner or her delegate), removes certain types of records from the ambit of the *Act*.

As briefly discussed in the previous section of this Interim Order, the Police alluded to this exclusion in responding to the appellant’s request for records related to any complaints he may have made against police officers. However, the Police presented what is a *possibility* of exclusion to the appellant as though it was an *accepted* fact that any records which might be identified as responsive to this part of his request would be “exempt”. This approach is, in my view, misleading and inappropriate.

If the Police seek to exclude any records identified through a search of the holdings of the Professional Standards Section, they must expressly claim the application of section 52(3) of the *Act* to exclude any such records. Furthermore, the appellant is entitled to know about the claim to this provision in the form of a proper decision letter to that effect, not in the form of a position asserted informally, and by implication, which cannot be appealed. The decision to appeal a claim of section 52(3) to such records belongs to the appellant.

Upon reviewing the copies of the records provided to me by the Police with the supplementary representations received on April 18<sup>th</sup>, it appears that no exemptions are claimed to withhold the severed portions. The appellant has previously asserted his entitlement to know the basis upon which information is being withheld, so as to inform his right of appeal. I agree with the appellant. To assure the integrity of this process and the meaningfulness of the appellant's right of appeal, he must be informed what exemption, or exemptions, under the *Act* are claimed by the Police to deny access to the information they have severed from the records.

There is a section from the *IPC Practices* document that is helpful in explaining why it is important to include the information previously outlined. It reads, in part:

When access is denied, the decision letter should provide the requester with a sound understanding of why some or all of the information has been denied.

If a thorough explanation is provided, the chances of an appeal may be greatly reduced. An appeal can be a time-consuming process for an institution, involving an investigation, mediation and/or an inquiry. It is therefore in the institution's best interest to ensure the decision letter is drafted with care, in accordance with legislative requirements.

Where the requester proceeds with an appeal, a proper decision letter is essential to the efficient processing of the appeal. If the original decision letter is incomplete, the institution will be required to take time to produce a proper decision letter.

In my view, the cumulative effect of the deficiencies in the decision letters issued by the Police are such that the appellant is not able to determine what records the Police have located, what records have been denied, whether the Police responded to his request in its entirety and whether any records which might be responsive to his request exist.

It is generally the case that an inadequate decision, or decisions, can be addressed during the mediation stage of the appeal so that only substantive issues remain for adjudication. This is unfortunately not the case in this appeal. Accordingly, the Police will be required to take additional steps with respect to this request before the substantive issues can be addressed.

I will require the Police to respond to the appellant's request as if it had just been received by them. In doing so, I will require the Police to prepare a new decision letter in accordance with the

legislative requirements. At a minimum, the Police are required to identify all records which have been located as being responsive to the appellant's request (as provided to this office during adjudication) and as may be identified in the record-holdings of the Professional Standards Section. The Police are required to number the pages and provide an index of the records. Further, the Police are to indicate for each record identified as being responsive to the request, whether or not access is granted. If access is denied to any record or portion of a record, the Police are to state the specific exemption in the *Act* they rely on and are to include an explanation of why the exemption applies to the record or part of the record. Finally, the Police should refer to any additional requirements for a proper decision letter as set out in the legislation and in the *IPC Practices* document to which I referred earlier.

I acknowledge that requiring the Police to issue a new decision essentially returns the parties to the starting point of the process, which may be especially frustrating for the appellant. In my view, however, this will facilitate the most meaningful review of the substantive issues and offers the best remedy in the circumstances.

**ORDER:**

1. I order the Police to issue a new access decision to the appellant, including a fee decision, in accordance with the *Act* and my findings in this Interim Order as to the scope of the request. The Police are to treat the date of this Interim Order as the date of the request, and shall not have recourse to a time extension under section 20;
2. I order the Police to provide with this decision an index of records that clearly describes each responsive record, states whether access to each record or portion of a record is granted or denied, and for each record or portion of a record to which access is denied, identifies the exemption, (including the applicable subsection(s) where an exemption has more than one subsection), that is claimed for that record or portion of a record.
3. I order the Police to provide me with a copy of the new decision letter issued to the appellant on the same date it is sent to the appellant.

Original signed By: \_\_\_\_\_  
Daphne Loukidelis  
Adjudicator

\_\_\_\_\_ May 3, 2007