



**Information and Privacy
Commissioner/Ontario**

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

ORDER MO-2429

Appeal MA06-324-2

Toronto Police Services Board



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NATURE OF THE APPEAL:

The Toronto Police Services Board (the Police) received a multi-part request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for records held by the Police involving the requester. One part of the request was for records that contain the:

Logs of who accessed information about [the requester] – held in Toronto Police records (CPIC [Canadian Police Information Centre], ECOPS [Enterprise Case Occurrence Processing System], MANIX [Master Name Index], CIPS [Crime Information Processing System], Professional Standards database, etc...). Include name, badge number, date, time. From Jan 1/00- Present (on or after May 12/06).

The Police sought written clarification from the requester regarding portions of the request. The requester responded to the Police's request for clarification by resubmitting the original request. At the same time, the requester also sought the following additional information from the Police databases:

Please provide to me the number of times [a named police officer (police officer #1)] accessed information – as contained in Toronto Police Records (electronic and other) – about any individual who resided at [address] – from January 2000 through to and including August 9, 2006.

I would like to stress that I am requesting non-identifying information in numeric form...

In response to the portions of the request that did not involve database searches, the Police located responsive records. In their decision letter, the Police advised the requester that partial access was granted to some of the responsive information, with severances made pursuant to sections 38(a), in conjunction with sections 8(1) (law enforcement), 9(1) (relations with other governments) and 13 (threat to health or safety); and section 38(b) (personal privacy) of the *Act*. Concerning the requester's database requests, the Police advised the requester that:

- the request for information relating to the residents at [address], the Freedom of Information and Protection of Privacy Unit is not mandated to conduct investigations and cannot, therefore, know the identities of these residents. Moreover, even had the names of these persons been provided, the existence of records pertaining to other named individuals cannot be confirmed in accordance with section 14(1) of the *Act*; and
- the Police are not obliged to create a record of the logs of those individuals who accessed information about the requester in the Police databases.

The requester (now the appellant) appealed the Police's decisions.

During mediation, the Police advised the mediator that both of the appellant's database requests would constitute an "off-line" search that would require them to create records. The Police

indicated that they are not obligated to create records and this issue, along with other issues, remained in dispute.

Section 2 of the *Act* defines a record as:

...any record of information however recorded, whether in printed form, on film, by electronic means or otherwise, and includes,

- (a) correspondence, a memorandum, a book, a plan, a map, a drawing, a diagram, a pictorial or graphic work, a photograph, a film, a microfilm, a sound recording, a videotape, a machine readable record, any other documentary material, regardless of physical form or characteristics, and any copy thereof, and
- (b) subject to the regulations, any record that is capable of being produced from a machine readable record under the control of an institution by means of computer hardware and software or any other information storage equipment and technical expertise normally used by the institution;

Section 1 of Regulation 823 under the *Act* states:

A record capable of being produced from machine readable records is not included in the definition of "record" for the purposes of the Act if the process of producing it would unreasonably interfere with the operations of an institution.

After receiving representations from the parties, I issued Interim Order MO-2257-I, in which I disposed of all of the issues in the appeal, except those concerning the appellant's request that the Police undertake the two above-referenced database searches.

With respect to the appellant's two database requests, order provision 3 of Order MO-2257-I required the Police:

...to answer the following questions [from the Notice of Inquiry] concerning the appellant's request for records/logs of any officers who accessed information about him through any Toronto Police database and his request for the number of times and dates that police officer #1 accessed information from the Police databases in relation to a specified address and to provide me with their answers by [a specified date]:

- Is the information requested by the appellant contained in a machine readable record? If so, how is it so stored? If not, what parts of it are not so stored?

- Is there information contained in the machine readable record which contains unique information for each individual entered in the database? If so, what is this information? How does the computer hardware or software distinguish the unique information for each individual?
- If there is information contained in the machine readable record which contains unique information for each individual entered in the database, is it possible to replace this unique information with a unique number? If so, how? If not, why not?
- If it is possible to replace this unique information with a unique number, could the record be considered to have been “produced” from the machine readable record?
- If the record could be considered to have been “produced” from the machine readable record, would the means required to produce the record be means “normally used by the Police”?
- If the record could be considered to have been “produced” from the machine readable record, would the process of producing it unreasonably interfere with the operations of the Police? If so, how?

Although ordered to do so, the Police did not directly answer the questions posed to them in order provision 3 of Order MO-2257-I. Instead, in response to my request for representations, they submitted that obtaining the information requested by the appellant would entail conducting an “off-line search”, which would constitute the creation of a record, and that they are not obliged to do so by the *Act*. They stated:

It should be noted that the Toronto Police Service does not itself have members fill in a paper or computer log or record listing all the computer checks done by each individual each day.

The only record of such checks would be what is known as an “off-line search”.

Although an off-line search is a machine-readable record; it is not a record to which the Toronto Police Service has direct access, nor is the Freedom of Information Coordinator authorized to initiate an off-line search.

Following this decision letter, I issued a final order concerning the appellant’s database requests, Order MO-2288-F. In that order, I dealt with the appellant’s request relating to the CPIC database separately from his request for information accessible through other databases operated by the Police. The provisions of Order MO-2288-F read:

1. I order the Police to conduct a search for any records they have concerning:

- the inputting of information relating to the appellant into the CPIC database;
- the submitting of a request to the RCMP to search CPIC for information relating to the appellant; and,
- the seven occasions when police officer #1 accessed CPIC about the appellant;

and to provide the appellant with a decision letter in accordance with the provisions of sections 19, 21 and 22 of the *Act*, treating the date of this order as the date of the request, without recourse to a time extension under section 20 of the *Act*. I further order the Police to provide me with a copy of this decision letter to the appellant.

2. I further order the Police to conduct a search all of their databases, including the ECOPS, MANIX, CIPS and Professional Standards databases, for:
 - the records/logs of any officers who accessed information about the appellant from January 1, 2000 until May 12, 2006; and,
 - the number of times police officer #1 accessed information about any individual who resided at a specified address from January 2000 until August 9, 2006;

and to provide the appellant with a decision letter in accordance with the provisions of sections 19, 21 and 22 of the *Act*, treating the date of this order as the date of the request, without recourse to a time extension under section 20 of the *Act*. I further order the Police to provide me with a copy of this decision letter to the appellant.

In response to this order, the Police's decision letter read:

...Please be advised that section 52 of the [*Act*] states the following:

52 (3) Subject to subsection (4), this Act does not apply to records collected, prepared, maintained or used by or on behalf of an institution in relation to any of the following:

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

a person by the institution between the institution and a person, bargaining agent or party to a proceeding or an anticipated proceeding.

3. Meetings, consultations, discussions or communications about labour relations or employment-related matters in which the institution has an interest.

It has been determined that certain records described in the Order do indeed qualify for exclusion under the above and therefore no longer fall under the auspices of the Act; as such, the Access & Privacy Section does not have the authority to release institutional documents of this nature.

Pursuant to the above Order, an I/CAD check was made of [specified address] for the period of January 1, 2000 to May 12, 2006. Partial access is granted to information concerning the aforementioned data base check. Access is denied to certain information pursuant to subsections 14(1)(f), 14(3)(b) and 38(b) of the [Act]. ..

Enclosed is a copy of the record.

The appellant appealed this decision. This appeal relates to the adequacy of the Police searches in response to the order provisions of Order MO-2288-F.

DISCUSSION:

In his letter of appeal, the appellant indicated that he was appealing both the denial of access and the adequacy of the Police's search for records responsive to the order provisions of Order MO-2288-F. He asked that this office enforce compliance by the Police of the terms of these order provisions.

On July 10, 2008, I wrote to the Toronto Police and sought a copy of the records that the Police claimed in their decision letter to be excluded from the *Act* by reason of section 52(3). I also asked to be provided with the unsevered records that accompanied their decision letter and:

...a written explanation of each of the searches undertaken by the Toronto Police in response to the order provisions in Order MO-2288-F so that I might determine whether the Toronto Police have complied with its terms.

On July 21, 2008, the Police responded to me, as follows:

Order MO-2288-F directed:

1. I order the Police to conduct a search for any records they have concerning

- *the inputting of information relating to the appellant into the CPIC database;*

The records are contained in the Professional Standards file.

- *the submitting of a request to the RCMP to search CPIC for information relating to the appellant*

The records are contained in the Professional Standards file.

- *the seven occasions when police officer #1 accessed CPIC about the appellant;*

The Unit has reviewed all the records received from the Professional Standards Unit... Pursuant to the above Order, the documents were again reviewed by Coordinator [name] and Analyst [name]. No additional information was located...

2. I further order the Police to conduct a search all [sic] of their databases, including the ECOPS, MANIX, CIPS and Professional Standards databases, for

- *the records/logs of any officers who accessed information about the appellant from January 1, 2000 until May 12, 2006*

As noted previously, the only records/logs would be those obtained through an offline search, a record contained in the Professional Standards file.

- *the number of times police officer #1 accessed information about any individual who resided at a specified address from January 2000 until August 9, 2006;*

A search of the records to display whether/when information was accessed about a particular person/place by a specific officer can only be conducted by the Professional Standards Unit and comprises employment related information...

This institution has cooperated fully and the IPC has been provided access to all the records in the possession of the Toronto Police Service concerning this matter.

I then wrote to the appellant, as follows:

...I have concluded that your new appeal (MA06-324-2) encompasses both the issues of the denial of access under sections 52(3), 14(1) and 38(b), and also whether reasonable searches have been conducted. Under the circumstances, this

office has decided not to seek to mediate your new appeal, and instead, to advance it immediately to the adjudication stage...

For your information, I enclose the response of the Police, dated July 21, 2008, to the inquiries I addressed to the Police in my letter of July 10, 2008 (which was copied to you). The July 21, 2008 letter from the Police has been severed to withhold information the Police claim to be confidential.

I propose to begin the adjudication of Appeal MA06-324-2 by requiring the Police to attend and provide oral representations on the issue of whether they have conducted reasonable searches. I will be scheduling this attendance as soon as possible and will obtain information from the Police regarding the searches they have conducted and the manner in which database access information is stored and retrieved. As confidential records and information will be reviewed during the oral representations, it will be held with the Police alone, as contemplated in section 41(13) of the *Act*. Once I obtain the Police's representations, the inquiry will proceed in the usual course with the opportunity for you to provide your representations.

I will also proceed with a written inquiry to determine the applicability of the section 52(3) exclusion and the personal privacy exemptions at sections 14(1) and 38(b) of the *Act*. You will be provided with an opportunity to provide representations as to the applicability of these sections of the *Act*....

Please contact me in writing by no later than [date] with any comments you may have on the procedure I have proposed above for the processing of your appeal, as I would like to proceed to the representation stage of this inquiry as expeditiously as possible.

The appellant agreed to my approach for the processing of his appeal. I then wrote to the Police to arrange for the scheduling of the oral inquiry, as follows:

In response to the appellant's appeal of the Toronto Police's decision letter of April 29, 2008 that resulted from Order MO-2288-F, I have decided to schedule an oral inquiry pursuant to section 41 of the *Municipal Freedom of Information and Protection of Privacy Act* and this office's Code of Procedure. This inquiry will be held in order to determine whether the Toronto Police have complied with the terms of Order MO-2288-F by conducting a reasonable search in response to the terms of that Order.

I will deal with the reasonable search issue first, in order to determine if the Police have made a reasonable effort to identify and locate responsive records. Once this issue is determined, I will then examine the responsive records to determine the applicability of the section 52(3) exclusion and the personal privacy exemption at section 21.

At the oral inquiry, the Police will be asked to provide a description of all steps taken to locate responsive records, including being asked to provide the following information:

- By who were the searches conducted?
- What are the qualifications, position and responsibilities of the employee(s) who carried out the searches?
- On what dates were the searches conducted?
- What places were searched?
- Who was contacted in the course of the search?
- What types of files and databases were searched?
- What steps were taken in conducting each search?
- What were the results of each search?
- Details of any records that were destroyed, including information about record maintenance policies and practices, including retention schedules;
- What is an “off-line search”, who conducts this search, and when would the Police consider a computer search to be "offline"?
- Do the Police have the ability to access information about which officers conducted CPIC searches via systems at Police premises; If not, why not?
- Are the Police claiming that there is an issue of custody/control of CPIC access information by Police staff; if so, why?
- Is the information requested by the appellant contained in a machine readable record? If so, how is it so stored? If not, what parts of it are not so stored?

An oral inquiry date was scheduled with the Police. In attendance at this inquiry was the Police’s Acting Coordinator for the Access and Privacy Unit, an Analyst from the Access and Privacy Unit, a representative from the Information and Security section of the Professional Standards section, along with counsel. The inquiry took place over two sittings. At the end of the first sitting, I confirmed with the Police that prior to the second sitting of the oral inquiry, the Police had agreed to:

...[review] all searches performed thus far, as well as conducting additional searches, to ensure that all searches listed in the order [Order MO-2288-F] provisions have been fulfilled.

By [date], the Police will provide me with written details of the searches undertaken, as well as copies of the records located in response to these searches, organized in accordance with the order provisions. The Police will also identify which records have not been disclosed to the appellant, as well as identify any claimed exemptions or exceptions.

Just prior to the resumption of the oral inquiry on January 15, 2009, the Police issued two decision letters to the appellant dated January 9 and January 14, 2009. Accompanying these letters were certain severed records. As a result of the evidence adduced at the oral inquiry on January 15, 2009, the Police undertook to provide the appellant with a revised decision letter encompassing all of the records searched for and located since the issuance of Order MO-2288-F.

On February 5, 2009, the Police issued the revised decision letter to the appellant and provided the appellant with binders containing records responsive relating to the order provisions of Order MO-2288-F, the disciplinary file of police officer #1 and further records responsive to his original request. This letter and the binders which accompanied it included information as to how and where the Police searched for these records. The Police state in their revised decision letter that:

...Pursuant to the recent decision of the Court of Appeal in *Toronto Police Services Board v. Ontario (Information and Privacy Commissioner)*, 2009 ONCA 20, you are being provided with “off-lines searches” that were conducted pursuant to Part 1 of Order MO-2288-F. The Toronto Police Service will be providing access to records which were either ordered to be created by the IPC, or were created by the Professional Standards Unit relating to the investigation arising from your *Police Services Act (PSA)* complaint.

With respect to order provisions which required the Police to conduct a search for any records they have concerning:

- the inputting of information relating to the appellant into the CPIC database;

The Risk Management Unit of the Police conducted searches and located responsive records. In the binder of records, the Police’s CPIC Specialist provided information that she went through the “the records/logs of any officers who accessed information about the appellant from January 1, 2000 until May 12, 2006” (the time parameters of the request) and:

...was able to determine that, apart from a number of different uniform officers, 5 civilians on the list queried the subject's name on unified search. Of those 5 civilians, 3 worked at Records Management Services at the time of their query, and the queries all correspond to occurrences entered on either COPSARCHIVE (Archived reports of the Case and Occurrence Processing System) or ECOPS ([The Police’s] occurrence reports - Enterprise Case and Occurrence Processing System). The other 2 civilians both work at [#] Division (according to the Internal Employee Directory)... Looking at the off-line search results, only civilian [name severed] queried CPIC in relation to the subject.

...There are several different CPIC Person Categories, including Accused (parties who have been charged), Probation (the court action results from a subject attending court having been charged with a crime), and Firearms Interest Police (which is a flag to advise law enforcement staff when a subject has been involved

in specific incidents within the last 5 years). Once I was able to determine the category of CPIC transaction, I was able to go into the applicable local index (e.g. COPS, ECOPS, CIPS) and determine the nature of the entries. As the RCMP has very specific rules and policies for each CPIC category, I was able to use my CPIC knowledge to describe the entries and determine when and why they were added to, modified or removed from CPIC.

As a result, in response to the order provision concerning the inputting of information relating to the appellant into the CPIC database, the Police provided the appellant with a synopsis of the five occasions that information about the appellant was inputted into the CPIC database. This synopsis included information about what the entry was for, when it was entered on the CPIC database and when it was removed from the database.

The remaining order provisions required the Police to search for:

- the submitting of a request to the RCMP to search CPIC for information relating to the appellant;
- the seven occasions when police officer #1 accessed CPIC about the appellant;
- the records/logs of any officers who accessed information about the appellant from January 1, 2000 until May 12, 2006; and,
- the number of times police officer #1 accessed information about any individual who resided at a specified address from January 2000 until August 9, 2006.

In the binder of records responsive to Order MO-2288-F, the Information Security Analyst, who was also present at the oral inquiry, provided information that:

Information Security is the only section of [the Police] authorized to conduct offline searches. The offline logs for the years 2000 - 2008 were searched and the only request to the RCMP was this original file [#]. This was confirmed via a review of all of our offline logs to determine if someone had submitted a request to the RCMP.

The Information Security Section of Professional Standards uses Bunyan, an audit repository system, to determine if queries were made against any Toronto Police Service investigative database, including Unified Search and CPIC. Generally, a time parameter is entered in the system with specific search criteria, such as a subject's name vehicle, or a user-code of a Toronto Police member and the audit data is returned.

With respect to the requirement that the Police submit a request to the RCMP to search CPIC for information relating to the appellant, the Information Security Analyst provided information that the Information Security Unit is the only office authorized to submit offline search requests to the RCMP. Her office maintains a log of such requests (referred to as an "off-line log"). She

searched the offline logs for the years 2000 to 2008 checking all search requests on the appellant's surname and all search requests by police officer #1. The result of her search revealed only one off-line search was requested of the RCMP by a police officer in the Professional Standards Department.

The remaining three order provisions required the Police to search for:

- the seven occasions when police officer #1 accessed CPIC about the appellant;
- the records/logs of any officers who accessed information about the appellant from January 1, 2000 until May 12, 2006; and,
- the number of times police officer #1 accessed information about any individual who resided at a specified address from January 2000 until August 9, 2006.

The Police provided the appellant with the results of their searches for this information. On the top of each page of the searches, the Police indicated the parameters of the responsive search, i.e. what time period was searched, the search criteria (the appellant's name, the police officers' badge number or the specified address code), the names of the databases searched, when the search was conducted, the identifying number of the person who conducted the search, and the number of results.

The searches revealed not only the occasions when police officer #1 accessed CPIC for information about the appellant, but also when he, or any other police officer, accessed information about the appellant on all of the Police's databases.

Additionally, the Police search results indicated the occasions when police officer #1 accessed the Police databases about the address specified in the request.

In their revised decision letter, the Police provided the appellant with further information and records in response to his original request. This information included the following:

Insofar as Toronto Police Service database checks of ECOPS, MANIX and CIPS, please be advised that the MANIX database is no longer active and has been replaced by the "Field Investigation Report" (FIR). There are no entries for the time period set by the IPC on FIR, and there are no entries on CIPS which have not already been released to you.

A copy of the I/CAD Address History Report has been renumbered and is being re-released to you with the relevant sections of the *Act* noted where material has been exempted [the record that accompanied their decision letter immediately following the issuance of Order MO-2288-F].

[T]he occurrences which were sent to you [just prior to the last sitting of the oral inquiry] are being re-released to you. The officers' notes relevant to the aforementioned occurrences are also being released to you at this time.

Please be advised that the additional information that was sent to you on [date] has been renumbered... However, with the exception of the addition of sections 8(1)(1) and 38(a) to [two] pages..., the redactions to that information have not been altered...

Additional Information Not Provided

Access cannot be provided to the memorandum book notes of [named police officer] as such records do not exist.

Access cannot be provided to relevant notes of [two former named police officers] as the memorandum books cannot be located...

[W]e are not providing e-mail correspondence exchanged between private individuals pursuant to sections 14(1)(f) and 14(3)(b) of the *Act*. Further, the release of the said correspondence would be a breach of section 33 of the *Act*.

Certain documents generated on dates beyond the scope of your request and the date(s) specified by Adjudicator Smith will not be released.

Lastly, pages 277-291 are comprised of [the Police's] Internal Correspondence summarizing the Internal Complaint File No.: [#], date] are being released on a without prejudice basis.

The Investigative Brief Relating to the Investigation and Disciplinary Hearing of Police Officer #1

In the correspondence of the Access & Privacy Section dated January 9, 2009, you also received occurrence no. [#s]. MANIX [#] is being released in full to you...

Documents of Other Institutions

Access is denied to information contained on the Police Automatic Registration Information System (PARIS) database. Although the Toronto Police Service is allowed access to it, this system is owned and operated by the Ministry of Transportation. Therefore, access to information derived from that database is denied pursuant to sections 9(1)(d) and 18(4) of the *Act*.

You may wish to contact the Ministry of Transportation, Data Access and Control Unit.

The Police also advised the appellant in this revised decision letter that he may appeal this decision to this office.

On February 19, 2009, I wrote to the appellant,

...On November 13, 2008 and January 15, 2009, I conducted an oral inquiry to obtain the Police's evidence concerning their search for records responsive to Order MO-2288-F. In response, the Police provided you with their decision letter of February 5, 2009, in which they explained the searches conducted and the results of these searches, which are contained in the pink binder.

I have had a staff member confirm with the Police the severances to the pink binder [the binder that contained the records and searches responsive to the order provisions of Order MO-2288-F]. Other than non-responsive information, the following severances have been made to the pink binder:

- Personal privacy exemption (sections 14(1)(f) and 14(3)(b)) for the names of the two police officers and one civilian on page 2.
- Information from another government or institution (sections 9(1)(d) and 18) concerning the information from the Ministry of Transportation on part of page 51. The Police have provided you with the contact information for the Ministry of Transportation to obtain this information directly.

Please advise me whether you wish me to proceed with a written inquiry to determine the applicability of sections 14(1), 9(1)(d) and 18 of the *Municipal Freedom of Information and Protection of Privacy Act* to pages 2 and 51 of the pink binder. If so, I will seek the Police's and then your written representations as to the applicability of these sections of the *Act* to the responsive information severed from pages 2 and 51 of the pink binder. In addition, please advise me whether you still claim that additional records exist beyond those identified by the Police in response to the order provisions of Order MO-2288-F. If so, please provide your reasons for believing that the Police have not conducted a reasonable search for records responsive to Order MO-2288-F.

The Police referred to other information in their letter of February 5, 2009 that is responsive to the original request and not responsive to Order MO-2288-F. Please take note of the appeal provisions in the February 5, 2009 letter concerning this information that is not contained in the pink binder and is not responsive to Order MO-2288-F. No additional fee is required; however, your file will be referred to mediation to determine if there is a possibility to mediate this portion of the appeal. With reference to the Police's February 5, 2009 letter, please specify in your appeal letter which information remains at issue.

I look forward to you reply in writing by no later than Monday, March 9, 2009 concerning the severances in the pink binder, any reasons you may have to believe that additional responsive records exist in response to the order provisions in Order MO-2288-F, as well as any additional information that remains at issue that is not responsive to Order MO-2288-F.

The appellant asked for an extension of time until April 14, 2009 to respond to my February 19, 2009 letter. On April 21, 2009, I received a letter from the appellant, which included the following:

It was through extra and extraordinary effort on the part of your office that resulted in the production of the most recent FOI [Freedom of Information] documents. The Police, in response to a request from your office, organized the information in a well laid out booklet form. However, the Police failed to ensure that the actual information presented would be easy to understand by the recipient - a member of the public, a layperson, who has no ability to decipher special police coded language and no ability to understand poor/illegible handwriting found in officer memo books.

The end effect is that my original FOI request, made years ago, has still not been properly responded to.

I then had an Adjudication Review Officer from this office contact the appellant to obtain information from him as to which police coded language that he could not decipher. As the appellant did not provide a response, I followed this call up with a letter to the appellant dated April 30, 2009 which stated, as follows:

... I am awaiting further information from you as to where in the Police's disclosure booklets there are police codes for which you require clarification. After these codes are clarified, I plan to proceed to issue an order that will adjudicate upon the Police's search for responsive records arising from the order provisions of Order MO-2288-F.

On May 1, 2009, the appellant wrote me that the information provided by the Police was "non-responsive" to his request.

On May 6, 2009 the appellant also advised me that:

The information produced relies upon wording (coded language, abbreviations, etc...) that I, as a layperson and member of the public, cannot decipher.

Please have the Police clearly explain, in laymen's terms, how the information they present, is responsive to my request. Until such time I will continue to deem the information they have presented as non-responsive.

In response, I sent the appellant a letter on May 6, 2009, wherein I stated that:

...For assistance, please refer the Police's decision letter of February 5, 2009, which contains an explanation of their disclosure to you, including the disclosure contained in the pink binder. As well, page 1 of the pink binder, the Table of Contents, explains which portion of the order provisions in Order MO-2288-F, each tab refers to. Pages 2 and 3 of this binder contain further information about how the searches were conducted.

I note that the information at the top of each page in tabs 4 to 6 of the pink binder indicates the parameters of the responsive search, i.e. what time period was searched, the search criteria (your name, the police officer's badge number [#1] or the address of [specified address], which is coded as [#], the names of the databases searched, when the search was conducted, the identifying number of the person who conducted the search, and the number of results.

Tabs 4 and 5 are the same record. Tab 4 refers to the occasions when officer [#1] accessed CPIC about you (see order provision 1). Please see the results for b[#] (badge [police officer #1]). The responsive information indicates the address code, your name and gender, the databases that were searched by officer [#1] and when these databases were searched. Tab 5, which is the same as tab 4, reflects the information about all officers who accessed information about you on the police databases (see order provision 2).

Tab 6 indicates the searches undertaken by officer [#1] of [specified address] as specified in your request and Order MO-2288-F, and shows the same type of information as in Tabs 4 and 5, i.e. the date these databases were searched and which databases were searched.

The information in Tab 7 reflects additional searches undertaken by the Police on November 18, 2008 in response to your original request. Pages 52 to 54 are searches done using your name as a search criterion for the period January 1, 1999 to August 20, 2006. Pages 56 to 59 use your home address as a search criterion for this time period. Pages 60 to 63 use the same search criterion as pages 56 to 59, but are not time limited.

I trust that this information clarifies the Police's disclosure in the pink binder. With reference to my letter of February 19, 2009, please provide me with any further representations you have concerning the Police's disclosure in response to Order MO-2288-F by Friday, May 22, 2009. As stated in my letter to you of April 30, 2009, I then plan to issue an order adjudicating upon the Police's search for responsive records arising from the provisions of Order MO-2288-F.

In response, the appellant responded that:

...the info produced by the Police does not satisfy my original application. The information produced is non-responsive. [emphasis in original]

Analysis/Findings

Where a requester claims that additional records exist beyond those identified by the institution, the issue to be decided is whether the institution has conducted a reasonable search for records as required by section 17 [Orders P-85, P-221 and PO-1954-I]. If I am satisfied that the search carried out was reasonable in the circumstances, I will uphold the institution's decision. If I am not satisfied, I may order further searches.

The *Act* does not require the institution to prove with absolute certainty that further records do not exist. However, the institution must provide sufficient evidence to show that it has made a reasonable effort to identify and locate responsive records [Orders P-624 and PO-2559]. To be responsive, a record must be "reasonably related" to the request [Order PO-2554].

A reasonable search is one in which an experienced employee knowledgeable in the subject matter of the request expends a reasonable effort to locate records which are reasonably related to the request [Orders M-909, PO-2469, PO-2592].

A further search will be ordered if the institution does not provide sufficient evidence to demonstrate that it has made a reasonable effort to identify and locate all of the responsive records within its custody or control [Order MO-2185].

Although a requester will rarely be in a position to indicate precisely which records the institution has not identified, the requester still must provide a reasonable basis for concluding that such records exist.

This order concerns the issue of whether the Police conducted a reasonable search for responsive records in response to the order provisions of Order MO-2288-F. The Police's February 5, 2009 revised decision letter concerned all of the records located by the Police since the issuance of Order MO-2288-F. Although this letter, along with my letter of February 19, 2009, invited the appellant to appeal the severances in the records located by the Police in response to the order provisions of Order MO-2288-F, as well as to appeal the severances in the additional records located responsive to his original request, he did not.

As indicated above, the appellant's response to the Police's disclosure following Order MO-2288-F was first to claim that he did not understand the contents of the records. Although asked to specifically indicate which particular items in which records he could not understand, the appellant did not do so. To assist the appellant in providing this information, in my letter to him of May 6, 2009 I reviewed the records and provided the appellant with details as my understanding of the specifics of the searches undertaken by the Police in response to Order MO-2288-F. In response, the appellant did not indicate specifically which information in the records he still did not understand and instead maintained that the records at issue were "non-

responsive". The appellant did not provide details as to why he believed the records were non-responsive, nor indicate what type of records would, in his opinion, be responsive to the order.

I have had an opportunity to review the records at issue which were disclosed to the appellant in response to Order MO-2288-F. I find that these records are responsive to the order provisions. In my view, the Police have completed each of the searches required by this order and have provided the appellant with the results of these searches.

I find that the Police have provided sufficient evidence to show that they have made a reasonable effort to identify and locate records responsive to the order provisions of Order MO-2288-F. The Police have provided a comprehensive description of the steps they undertook to locate this information. I find that the appellant has not provided me with a reasonable basis for concluding that additional responsive records exist. Accordingly, I find that the Police have performed a reasonable search for responsive records.

ORDER:

I uphold the Police's search for responsive records and dismiss the appeal.

Original Signed by: _____
Diane Smith
Adjudicator

_____ June 12, 2009