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

ORDER MO-2470

Appeal MA08-289

Essex Police Services Board

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NATURE OF THE APPEAL:

On March 27, 2009, the Town of Essex formally transferred policing responsibilities from a municipal police service (the Essex Police Service) to the Ontario Provincial Police (the OPP). The Essex Police Service no longer exists and the OPP now provides policing in the area.

Prior to the change in policing responsibilities, the Town received two requests under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for the following records:

> The collective working agreement between the Essex Police Services Board and [the Chief of Police] of the Essex Police Services. Any addendums and letters of agreement inclusive.
>
> The collective agreement between the Essex Police Services Board and [the Deputy Chief] of the Essex Police Services. Any addendums or letters of agreement here to or inclusive.

In response, the Town sent a letter to the Essex Police Services Board (the Board) in which it advised the Board of the two access requests and asked it to make a decision with respect to whether the Chief's and Deputy Chief's employment contracts could be disclosed to the requester.

The Board subsequently sent a letter back to the Town, which stated that it had discussed the requests at a meeting and decided to deny access to the employment contracts "based on Section 2.1(b) 'personal information', Section 14.(1)(f) and Section 14.(2)(f) of the *Act*." In short, the Board is relying on the mandatory exemption in section 14(1) (personal privacy) of the *Act*, read in conjunction with the factor in section 14(2)(f) (highly sensitive information), to deny the requests.

The Town then sent a letter to the requester, advising him that the Board had decided to deny access to the Chief's and Deputy Chief's employment contracts. The requester (now the appellant) appealed the Town's decision to this office.

During the mediation stage of the appeal process, the mediator clarified with the parties that the Board is the institution with custody or control of the records at issue, and asked the Board to issue a formal access decision to the appellant. The Board sent a decision letter to the appellant, denying access to the two employment contracts. In short, the Board is the institution in this appeal, not the Town.

The mediator contacted both the Chief and the Deputy Chief, who are affected parties in this appeal, to obtain their views as to whether their employment contracts with the Board should be disclosed to the appellant. Both affected parties stated that they objected to the disclosure of their employment contracts.

This appeal was not resolved in mediation and was moved to the adjudication stage of the appeal process where an adjudicator conducts an inquiry under the *Act*. I started my inquiry by issuing a Notice of Inquiry to the Board, the Chief and the Deputy Chief. In response, all of these parties submitted representations to this office.

I then sent a Notice of Inquiry to the appellant, along with a severed copy of the representations submitted by the Board, the Chief and the Deputy Chief. Portions of the parties' representations were not shared with the appellant because they fall within this office's confidentiality criteria on the sharing of representations. The appellant submitted representations in response.

In its representations, the Board claims that the appellant's requests are "frivolous and vexatious." Consequently, it must be determined whether the exception to the right of access in section 4(1)(b) (frivolous or vexatious request) of the *Act* applies to the appellant's requests. The Board also states that "as the harm of disclosure will have largely abated following the transition date of March 31, the Board is prepared to disclose those portions of the Agreements that do not constitute an unjustified invasion of personal privacy after March 31, 2009."

In their representations, both the Chief and Deputy Chief also indicate that they would be prepared to reconsider their position with respect to the disclosure of their employment contracts after the middle of May 2009.

RECORDS:

The two records at issue in this appeal are:

- The employment agreement between the Board and the Chief of Police, dated April 6, 2006
- The employment agreement between the Board and the Deputy Chief of Police, dated April 6, 2006

DISCUSSION:

FRIVOLOUS OR VEXATIOUS REQUEST

Section 4(1)(b) of the *Act* reads:

> Every person has a right of access to a record or a part of a record in the custody or under the control of an institution unless,
>
> > the head is of the opinion on reasonable grounds that the request for access is frivolous or vexatious.

Section 5.1 of Regulation 823 under the *Act* elaborates on the meaning of the terms "frivolous" and "vexatious":

> A head of an institution that receives a request for access to a record or personal information shall conclude that the request is frivolous or vexatious if,
>
> (a) the head is of the opinion on reasonable grounds that the request is part of a pattern of conduct that amounts to an abuse of the right of access or would interfere with the operations of the institution; or
>
> (b) the head is of the opinion on reasonable grounds that the request is made in bad faith or for a purpose other than to obtain access.

Section 4(1)(b) provides institutions with a summary mechanism to deal with frivolous or vexatious requests. This discretionary power can have serious implications on the ability of a requester to obtain information under the *Act*, and therefore it should not be exercised lightly [Order M-850].

An institution has the burden of proof to substantiate its decision to declare a request to be frivolous or vexatious [Order M-850].

The Board submits that the appellant's requests for the Chief's and Deputy Chief's employment contracts are "frivolous or vexatious":

> … the request for the Employment Agreements ("Agreements") has been made for an improper purpose and a release of those documents prior to concluding the severance package negotiations or collective agreement negotiations would prejudice the bargaining position of the Board. This constitutes frivolous or vexatious grounds for the request, and the Board acted properly in refusing the same.

The appellant submits that his requests are not frivolous or vexatious:

- [We have] not made excessive requests for access, this is the first.
- The nature and scope of this request is [very] defined.
- The purpose of this request is to have access to these contracts.
- The Board would have you believe that this request has come about [due] to the disbandment of the Essex Police Service. This request … was made to have access to these contracts because it is in the public's interest to do so. It is interesting that the Board continues to fight this application given that they are a public board. If anyone would be open and frank about issues with the public, you would think it would be this public board.

I have carefully considered the parties' representations. For the reasons that follow, I find that the Board has failed to prove that the appellant's requests are frivolous or vexatious.

At the outset, I note that the Board did not claim that the appellant's requests are frivolous or vexatious in the decision letter that it issued to him. It raised this issue for the first time in its representations. In my view, the Board's late raising of this claim is a factor that weighs against a finding that the appellant's requests are frivolous or vexatious.

As noted above, paragraph (a) of section 5.1 of Regulation 823 requires the head of an institution to conclude that a request is frivolous or vexatious if the head is of the opinion, on reasonable grounds, that the request is part of a pattern of conduct that amounts to an abuse of the right of access or would interfere with the operations of the institution.

The Board must first show that the appellant's requests are part of a "pattern of conduct." A "pattern of conduct" requires recurring incidents of related or similar requests on the part of the requester [Order M-850]. The Board has not provided me with evidence of any related or similar requests made by the appellant. On the contrary, the only evidence I have before me with respect to the appellant's conduct is that he simultaneously filed two access requests, one for the Chief's employment contract and one for the Deputy Chief's. In short, I find that the Board has failed to establish that the appellant's request is part of a "pattern of conduct."

Moreover, even if I was to accept that the appellant's requests are part of a "pattern of conduct," I am not persuaded that it amounts to an abuse of the right of access or would interfere with the Board's operations.

Given that the appellant has only made two access requests, I find that his requests are not part of a pattern of conduct that amounts to an abuse of the right of access. Moreover, although the Board submits that "releasing" the employment contracts would prejudice the Board's bargaining position in employment and labour relations negotiations, I note that paragraph (a) of section 5.1 is concerned with the request itself, not with any potential disclosure of the records. Consequently, I find that the appellant's requests are not part of a pattern of conduct that would interfere with the Board's operations.

As noted above, paragraph (b) of section 5.1 of Regulation 823 requires the head of an institution to conclude that a request is frivolous or vexatious if the head is of the opinion, on reasonable grounds, that the request is made in bad faith or for a purpose other than to obtain access. The Board has not provided any credible evidence to substantiate a finding that the appellant's requests were made in the manner or for the purpose set out in paragraph (b). In my view, it is evident from the appellant's representations that he made his requests in good faith and for the purpose of obtaining access to the two employment contracts.

In short, I find that the Board has failed to establish that it has reasonable grounds for concluding that the appellant's access requests are frivolous or vexatious. Consequently, the exception to the right of access in section 4(1)(b) of the *Act* does not apply to his requests.

I will now turn to whether the two employment contracts are exempt from disclosure under the personal privacy exemption in section 14(1) of the *Act*.

PERSONAL INFORMATION

The Board claims that the information in the Chief's and Deputy Chief's employment contracts is exempt from disclosure under the mandatory personal privacy exemption in section 14(1) of the *Act*. However, section 14(1) only applies to information that qualifies as "personal information." Consequently, the first issue that must be considered in this appeal is whether the information in the two employment contracts relating to the Chief and Deputy Chief constitutes their "personal information." That term is defined in section 2(1) as follows:

> "personal information" means recorded information about an identifiable individual, including,
>
> (a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual,
>
> (b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,
>
> (c) any identifying number, symbol or other particular assigned to the individual,
>
> (d) the address, telephone number, fingerprints or blood type of the individual,
>
> (e) the personal opinions or views of the individual except if they relate to another individual,
>
> (f) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence,
>
> (g) the views or opinions of another individual about the individual, and
>
> (h) the individual's name where it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual;

The list of examples of personal information under section 2(1) is not exhaustive. Therefore, information that does not fall under paragraphs (a) to (h) may still qualify as personal information [Order 11].

Section 2(2.1) excludes certain information from the definition of personal information. It states:

> Personal information does not include the name, title, contact information or designation of an individual that identifies the individual in a business, professional or official capacity.

The Board and the Chief and Deputy Chief submit that the information in the two employment agreements is "personal information." The appellant submits that the information in these two records relates to the Chief and Deputy Chief in a professional rather than a personal capacity and does not, therefore, qualify as their "personal information."

The employment contracts include the names and job titles of the Chief and Deputy Chief. As noted above, section 2(2.1) of the *Act* stipulates that personal information does not include the name, title, contact information or designation of an individual that identifies the individual in a business, professional or official capacity. I find that the names and job titles of these individuals in the employment contracts identifies them in a professional or official capacity, not a personal capacity. Accordingly, I find that this information does not qualify as "personal information" and cannot be exempt from disclosure under the personal privacy exemption in section 14(1) of the *Act*.

However, the fact that an individual's name and job title in a record constitutes professional information does not automatically mean that other information relating to that same individual in the record does not qualify as "personal information." In assessing whether the remaining information in the employment contracts relating to the Chief and Deputy Chief constitutes "personal information," it is necessary to generally describe the contents of these records.

The Chief's employment contract includes language that addresses the following terms: preamble, position, duration, salary, court time, other assignments, clothing and equipment, professional development, legal indemnification, vacations, holidays, sick leave, life insurance, workplace safety and insurance, health and welfare, bereavement leave, survivor's pension, separation, incidental expense allowance, membership and participation in professional associations, the *Police Services Act*, amendments, governing law, governing law and arbitration, entire agreement. In addition, Appendix A of the agreement sets out the Chief's salary for four years (2005-2008).

The Deputy Chief's employment contract includes language that addresses the following terms: preamble, management rights, harassment, the *Police Services Act*, salary, hours of work, court time, other assignments, uniforms, equipment, clothing and cleaning allowances, professional development, legal indemnification, vacation, holidays, sick leave, life insurance, workplace safety and insurance, health and welfare, bereavement leave, survivor's pension, separation, membership fees, arbitration, physical fitness, home office expense, term of agreement. In addition Appendix A sets out the organizational responsibilities of the Deputy Chief, and Appendix B is a memorandum of understanding with respect to the Deputy Chief's pension.

Previous orders of this office have consistently found that information about individuals in employment contracts or severance agreements generally constitutes their "personal information." [Orders M-173, P-1348, MO-1184, MO-1332, MO-1405, MO-1622, MO-1749, MO-1970, MO-2318, PO-2519 and PO-2641).

I note that there is some information in both the Chief's and Deputy Chief's employment contracts that does not constitute their "personal information," because it either relates to management rights (i.e., the rights of the Board) or is generic information about a non-personal matter, such as the law that governs a particular situation. In the Chief's employment contract, this includes the following terms: the *Police Services Act*, amendments, governing law, and governing law and arbitration. In the Deputy Chief's contract, this includes: management rights, harassment, the *Police Services Act*, and arbitration. I find that this information does not qualify as "personal information" and cannot be exempt from disclosure under the personal privacy exemption in section 14(1) of the *Act*.

In my view, however, most of the information in the employment agreements constitutes the "personal information" of the Chief and Deputy Chief. For example, this office has found that the amount of an individual's salary constitutes "personal information" [Order P-1095]. Accordingly, I find that the salary clause and Appendix A of the Chief's employment contract, which sets out his salary for four years (2005-2008), is his "personal information." Similarly, I find that the salary clause in the Deputy Chief's employment contract, which sets out how his salary is calculated, constitutes his "personal information."

The remaining information in the two employment contracts relates mainly to the specific benefits that the Chief and Deputy Chief received under these agreements (e.g., vacation, sick leave, clothing and cleaning allowances, life insurance, health and welfare, bereavement leave, pension, home office expense, etc.) I find that this information constitutes the "personal information" of these two individuals.

I will now assess whether the "personal information" in the two employment contracts relating to the Chief and Deputy Chief qualifies for exemption under the personal privacy exemption in section 14(1) of the *Act*.

PERSONAL PRIVACY

Where a requester seeks personal information of another individual, as is the case in this appeal, section 14(1) of the *Act* prohibits an institution from releasing this information unless one of the exceptions in paragraphs (a) to (f) of section 14(1) applies.

Section 14(1)(f)

If the information fits within any of paragraphs (a) to (f) of section 14(1), it is not exempt from disclosure under section 14(1). In the circumstances of this appeal, one exception that could

apply is paragraph (f). This provision states:

> A head shall refuse to disclose personal information to any person other than the individual to whom the information relates except,
>
> > if the disclosure does not constitute an unjustified invasion of personal privacy.

The factors and presumptions in sections 14(2), (3) and (4) help in determining whether disclosure would or would not be an unjustified invasion of personal privacy under section 14(1)(f).

The Board submits that the personal information in the two employment contracts falls within the presumption in section 14(3)(e) of the *Act*, which states that a disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy if the personal information relates to "employment history." In addition, it submits that the Chief's and Deputy Chief's "income and remuneration package entitlement" falls within the presumption in section 14(3)(f) of the *Act*, which states that a disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy if it describes an individual's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness.

Both the Chief and Deputy Chief submit that the presumption in section 14(3)(f) applies to the personal information relating to them in their employment contracts. In addition, they submit that the factor in section 14(2)(f) (highly sensitive information) applies to their personal information. Section 14(2) lists various factors that may be relevant in determining whether disclosure of personal information would constitute an unjustified invasion of personal privacy [Order P-239]. Under section 14(2)(f), an institution must, in determining whether a disclosure of personal information constitutes an unjustified invasion of personal privacy, consider all the relevant circumstances, including whether the personal information is "highly sensitive."

The Chief and Deputy Chief further submit that sections 14(4)(a) and (b) do not apply to the personal information in the two employment contracts due to the "sensitive nature" of this information.

The appellant submits that disclosure of the information relating to the Chief and Deputy Chief in the two employment contracts would not constitute an unjustified invasion of their personal privacy, because sections 14(4)(a), (b) and (c) apply to this information.

Section 14(4)(a)

Section 14(4) lists the types of personal information that fall within the exception in paragraph (f) of section 14(1), irrespective of whether any of the presumptions in section 14(3) are present. This office has also found that the application of section 14(4) cannot be "overridden" or "rebutted" by the factors in section 14(2) [Order PO-1763].

If any of paragraphs (a) to (c) of section 14(4) apply, disclosure does not constitute an unjustified invasion of personal privacy and the information is, therefore, not exempt under section 14(1).

I will start by considering whether the Chief's and Deputy Chief's personal information in the two employment contracts falls within section 14(4)(a). This provision states:

> Despite subsection (3), a disclosure does not constitute an unjustified invasion of personal privacy if it,
>
> > discloses the classification, salary range and benefits, or employment responsibilities of an individual who is or was an officer or employee of an institution;

It must be determined whether section 14(4)(a) applies to the "benefits" information in the two employment contracts. A disclosure of personal information does not constitute an unjustified invasion of personal privacy if it discloses the "benefits" that the Chief and Deputy Chief received under their employment contracts. In Order PO-2519, Adjudicator Steven Faughnan reviewed the definition of "benefits" applied in previous orders of this office and stated:

> The Commissioner's office has interpreted "benefits" to include entitlements, in addition to base salary, that an employee receives as a result of being employed by the institution [Order M-23]. Order M-23 lists the following as examples of "benefits":
>
> - insurance-related benefits
> - sick leave, vacation
> - leaves of absence
> - termination allowance
> - death and pension benefits
> - right to reimbursement for moving expenses
>
> In subsequent orders, adjudicators have found that "benefits" can include:
>
> - incentives and assistance given as inducements to enter into a contract of employment [Order PO-1885]
> - all entitlements provided as part of employment or upon conclusion of employment [Order P-1212]
>
> These principles and reasoning have been applied in previous orders issued by this office including MO-1405, MO-1749, and MO-1796.

I have carefully reviewed the two employment contracts. I am satisfied that the information under the following headings in the Chief's employment contract qualifies as "benefits" for the purposes of section 14(4)(a): court time, other assignments, clothing and equipment, professional development, legal indemnification, vacations, holidays, sick leave, life insurance, workplace safety and insurance, health and welfare, bereavement leave, survivor's pension,

separation, incidental expense allowance, membership and participation in professional associations.

Similarly, I am satisfied that the information under the following headings in the Deputy Chief's employment contract qualifies as "benefits" for the purposes of section 14(4)(a): court time, other assignments, uniforms, equipment, clothing and cleaning allowances, professional development, legal indemnification, vacation, holidays, sick leave, life insurance, workplace safety and insurance, health and welfare, bereavement leave, survivor's pension, separation, membership fees, physical fitness, home office expense, and Appendix B (memorandum of understanding with respect to the Deputy Chief's pension).

In short, I find that section 14(4)(a) applies to the "benefits" information that is found in the Chief's and Deputy Chief's employment contracts. Disclosure of this personal information does not constitute an unjustified invasion of their personal privacy because of the operation of section 14(4)(a).

Under section 14(4)(a), a disclosure of personal information also does not constitute an unjustified invasion of personal privacy if it discloses the "employment responsibilities" of the Chief and Deputy Chief. I am satisfied that the information under the following headings in the Chief's employment contract qualifies as "employment responsibilities" for the purposes of section 14(4)(a): preamble, position and duration. Similarly, I am satisfied that the information under the following headings in the Deputy Chief's employment contract qualifies as "employment responsibilities" for the purposes of section 14(4)(a): preamble, hours of work and Appendix A (organizational responsibilities of the Deputy Chief).

Under section 14(4)(a), a disclosure of personal information also does not constitute an unjustified invasion of personal privacy if it discloses the "salary range" of the Chief and Deputy Chief. The two employment contracts do not contain the "salary range" of these two individuals. Instead, the Chief's employment contract contains a salary clause, coupled with Appendix A, which sets out the Chief's salary for four years (2005-2008). The salary clause in the Deputy Chief's employment contract sets out how his salary is calculated.

In summary, I find the personal information relating to "benefits" and "employment responsibilities" in the Chief's and Deputy Chief's employment contracts fits within the exception in paragraph (f) of section 14(1). This personal information is not, therefore, exempt from disclosure under section 14(1) and must be disclosed to the appellant.

However, because the salary information in the two employment contracts does not refer to a "salary range," section 14(4)(a) does not apply to those provisions of the contracts. Consequently, this information does not fit within the exception in paragraph (f) of section 14(1), and it must be determined whether any of the other exceptions in paragraphs (a) to (e) might apply to this information.

Section 14(1)(d)

In my view, the only other exception in paragraphs (a) to (e) of section 14(1) that might apply to the Chief's and Deputy Chief's salary information in the two employment contracts is paragraph (d). This provision states:

> A head shall refuse to disclose personal information to any person other than the individual to whom the information relates except,
>
> > under an Act of Ontario or Canada that expressly authorizes the disclosure;

Ontario's *Public Sector Salary Disclosure Act* (the *PSSDA*) requires organizations that receive public funding from the Ontario government to disclose annually the names, positions, salaries and total taxable benefits of employees paid $100,000 or more in a calendar year. The *PSSDA* covers a range of public bodies, including provincial government ministries, hospitals, universities and colleges, municipalities (including police services) and other public sector employers who receive a significant level of funding from the Ontario government.

For section 14(1)(d) to apply, there must be specific authorization in the statute for disclosure of the information at issue. Section 3 of the *PSSDA* states, in part:

> (1) Not later than March 31 of each year beginning with the year 1996, every employer shall make available for inspection by the public without charge a written record of the amount of salary and benefits paid in the previous year by the employer to or in respect of an employee to whom the employer paid at least $100,000 as salary.
>
> (2) The record shall indicate the year to which the information on it relates, shall list employees alphabetically by surname, and shall show for each employee,
>
> > (a) the employee's name as shown on the employer's payroll records;
> >
> > (b) the office or position last held by the employee with the employer in the year;
> >
> > (c) the amount of salary paid by the employer to the employee in the year;
> >
> > (d) the amount of benefits reported to Revenue Canada, Taxation, under the *Income Tax Act* (Canada) by the employer for the employee in the year.
>
> ….

> (4) An employer required by this section to make a record or statement available to the public by March 31 in a given year shall allow the public to inspect it without charge at a suitable location on the employer's premises at any time during the employer's normal working hours throughout the period beginning on March 31 and ending on December 31 of the same year.

In Order PO-2641, Assistant Commissioner Brian Beamish found that section 3(1) of the *PSSDA* "expressly authorized" the disclosure of the salary of the President of McMaster University, as contemplated in the exception in section 21(1)(d) of the *Freedom of Information and Protection of Privacy Act* (the equivalent to section 14(1)(d) of the municipal *Act*). The President's salary, which exceeded $100,000, was found in his employment contract with the University. Assistant Commissioner Beamish stated, in part:

> I find that section 3(1) of the *PSSDA* "expressly authorizes the disclosure" of the "salary" and "benefit" amounts of the President of the University. Section 3(1) of the *PSSDA* indicates that the obligation to disclose the "salary" and "benefit" information lies with the employer. It prescribes with specificity the manner in which the information should be disclosed, and states that disclosure should be made to members of the public …
>
> ….
>
> In these circumstances, I find that the exception to the personal privacy exemption created by section 21(1)(d) applies to the President's "salary" in Article 3.1 of the [Renewal Employment Agreement (REA)]. As I have already found that information that relates to the President's benefits should be disclosed pursuant to section 21(4) of the *Act*, it is not necessary for me to consider the application of section 21(1)(d) to that information. Accordingly, I find that the salary referenced in Article 3.1 of the REA should be disclosed to the appellant as it falls within the exception created by section 21(1)(d) of the *Act*.

I agree with Assistant Commissioner Beamish's reasoning and will apply it in the circumstances of the appeal before me.

None of the parties provided representations as to whether the exception in paragraph (d) of section 14(1) applies to the Chief's and Deputy Chief's salary information in the two employment contracts. However, I have reviewed the *PSSDA* lists for 2006 to 2009, which are available on the Ministry of Finance's website. These lists identify the names and specific salaries of those public sector employees who made at least $100,000 in the previous year. The Chief's annual salary in 2005, 2006, 2007 and 2008 is publically available on this website. The Deputy Chief's annual salary in 2006, 2007 and 2008 is also publically available on this website.

The Chief's employment contract contains a salary clause (Article 3), coupled with Appendix A, which sets out the Chief's annual salary for four years (2005-2008). The salary clause (Article 4) in the Deputy Chief's employment contract includes four sub-provisions (Articles 4.1, 4.2, 4.3 and 4.4) that set out how his salary was calculated for four years (2005-2008). I find that section

3(1) of the *PSSDA* "expressly authorizes" the disclosure of the salary information in the Chief's employment contract for 2005, 2006, 2007 and 2008, and in the Deputy Chief's employment contract for 2006, 2007 and 2008. Accordingly, this information fits within the exception in paragraph (d) of section 14(1). It is, therefore, not exempt from disclosure under section 14(1) and must be disclosed to the appellant.

The only salary information that does not fit within the exception in paragraph (d) of section 14(1) is the Deputy Chief's salary for 2005. The *PSSDA* list for 2006 (which reports salaries of at least $100,000 for 2005) does not list the Deputy Chief's name and salary for that year, which means that he made less than $100,000. I find, therefore, that section 3(1) of the *PSSDA* did not "expressly authorize" the disclosure of Deputy Chief's salary for 2005.

Accordingly, Article 4.1 of the Deputy Chief's employment contract, which sets out how his salary for 2005 was calculated, does not fit within the exception in paragraph (d) of section 14(1). In my view, none of the other exceptions in paragraphs (a) to (f) of section 14(1) apply to this information. Consequently, the salary information in Article 4.1 of the Deputy Chief's employment contract is exempt from disclosure under the personal privacy exemption in section 14(1) of the *Act*.

ORDER:

1. I order the Board to disclose the Chief's employment contract in its entirety to the appellant.

2. I order the Board to disclose the Deputy Chief's employment contract in its entirety to the appellant, except for Article 4.1, which qualifies for exemption under section 14(1) of the *Act*. To be clear, Article 4.1 must **not** be disclosed to the appellant.

3. I order the Board to disclose these two records to the appellant by **December 3, 2009** but no earlier than **November 27, 2009**.

4. I remain seized of any compliance issues that may arise with respect to this order.

Original signed by: October 29, 2009
Colin Bhattacharjee
Adjudicator