

Information and Privacy Commissioner,
Ontario, Canada



Commissaire à l'information et à la protection de la vie privée,
Ontario, Canada

ORDER MO-2911

Appeal MA11-499

Durham Regional Police Services Board

July 9, 2013

Summary: The appellant is a journalist who is seeking records from the Durham Regional Police Services Board about lost or stolen firearms, ammunition and use-of-force equipment. The police created a summary report and also located occurrence reports documenting specific incidents in which officers reported that their use-of-force equipment was lost or stolen. They provided the appellant with access to most of the information in these records, but withheld the officers' names and other information relating to these individuals under the mandatory personal privacy exemption in section 14(1), read in conjunction with the presumption in section 14(3)(b) of the *Municipal Freedom of Information and Protection of Privacy Act*. In addition, they withheld other information, including the name of a police dog, the name of a specific drug operation, the acronym for a specific police unit, and the serial numbers of lost or stolen use-of-force equipment. They charged the appellant a \$348.20 fee for the records.

In this order, the adjudicator finds that the officers' names, job titles, work contact information, badge numbers and the narratives they provided in the records, cannot qualify for exemption under section 14(1) because this information is not their "personal information," as that term is defined in section 2(1). Instead, this information is associated with these officers in a professional capacity. In addition, he finds that the officers who provided representations have not proven that disclosing this professional information could reasonably be expected to endanger the lives or physical safety of either them or their families under the discretionary law enforcement exemption in section 8(1)(e). He also finds that other information severed by the police could not reasonably be expected to interfere with a law enforcement matter under section 8(1)(a), including the name of a police dog, the name of a drug operation, the acronym for a specific police unit, and the serial numbers of lost or stolen use-of-force equipment.

He orders the police to fully disclose the records to the appellant, except for the officers' personal information (their home addresses, home telephone numbers, birth dates, etc.), the personal information of any civilians and other information that is not responsive to the appellant's request. He upholds the \$348.20 fee that the police charged the appellant for accessing the records.

Statutes Considered: *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, ss. 2(1) (definition of "personal information"), 2(2.1), 8(1)(a), 8(1)(e), 8(1)(l), 14(1) and 45(1).

Orders and Investigation Reports Considered: Orders MO-2050, MO-2112, MO-2252, MO-2527, MO-2862 and PO-2455.

OVERVIEW:

[1] The appellant is a journalist who submitted an access request to the Durham Regional Police Services Board (the police) under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for the following information:

. . . a report that shows the number and specific types of firearms, ammunition and use-of-force equipment stolen, lost or missing from the Durham Regional Police Service from Jan. 1, 1985 to Jan. 1, 2011. I ask that this report include a breakdown of the total number of each type of equipment lost or stolen (for example: pepper spray, asp, baton, etc.).

. . . a copy of the occurrence details (or occurrence report) for each incident of a lost or stolen DRPS-issued firearm, ammunition or use-of-force equipment from the time period Jan. 1, 2005 to Jan. 1, 2011.

It is my contention the information being requested is of great public interest.

[2] With respect to the first part of the appellant's request, the police created a three-page report that briefly summarizes the incidents in which police officers reported that their use-of-force equipment was lost or stolen (the "summary report"). This report includes the names of the officers who reported the loss or theft of their use-of-force equipment.

[3] With respect to the second part of his request, the police located various occurrence reports, which describe in greater detail the incidents in which police officers reported that their use-of-force equipment was lost or stolen. These occurrence reports contain information relating to the officers who reported the loss or theft of their use-of-force equipment, including their names.

[4] The police issued two decision letters to the appellant. In their initial decision letter, the police stated that they would be disclosing the records to him, except for "all personal information of the involved officers as well as any information that could interfere with a law enforcement matter in accordance with the *Act*." However, they did not cite any of the specific exemptions in the *Act*.

[5] In their revised decision letter, the police stated that they would be withholding the "personal information of some individuals" under the mandatory personal privacy exemption in section 14(1), read in conjunction with the presumption in section 14(3)(b) (investigation into violation of law) of the *Act*. They did not cite any other exemptions. They charged the appellant a \$348.20 fee for the records.

[6] The appellant appealed the police's decisions to the Information and Privacy Commissioner of Ontario (IPC).

[7] During mediation, the appellant claimed that there is a compelling public interest in disclosure of the records that clearly outweighs the purpose of the section 14(1) exemption. Consequently, the public interest override in section 16 of the *Act* was included as an issue.

[8] Although the appellant advised the mediator that he intended to ask the police for a fee waiver, this issue was not identified as one of the "issues in dispute" in the mediator's report that was issued to the parties at the conclusion of mediation. In addition, none of the parties has sent the IPC a copy of any fee waiver decision that may have been issued by the police. Consequently, whether the police should grant the appellant a fee waiver is not at issue in this particular appeal.

[9] This appeal was not resolved during mediation and was moved to adjudication for an inquiry. The initial adjudicator assigned to this appeal sought and received representations on the issues to be resolved from both the police and the appellant. These representations were shared in accordance with section 7 of the IPC's *Code of Procedure and Practice Direction Number 7*.

[10] This appeal was then assigned to me to complete the inquiry process. I notified and sought representations from 38 police officers identified in the records who reported that their use-of-force equipment was lost or stolen, particularly with respect to whether these records contain their personal information and, if so, whether disclosing it would constitute an unjustified invasion of their personal privacy under section 14(1). In response, I received representations from 12 of these officers.

[11] During the inquiry process, the police discovered that there are several entries on the summary report for use-of-force equipment that was not lost or stolen. Instead, the named officer in each entry replaced his or her equipment because it was damaged. It also appears that the police have severed some incident numbers from the summary

report, presumably because they do not relate to stolen, lost or missing equipment. I accept that all of this information is not responsive to the appellant's request. The police have provided me with an updated summary report in which this information has been removed or severed.

RECORDS:

[12] The records in this appeal are a summary report and various occurrence reports, which document incidents in which police officers reported that their use-of-force equipment was lost or stolen.

[13] Based on my review of the severed and unsevered records that the police provided to the IPC, it appears that they disclosed most of the information in these records to the appellant but withheld the following information:

- the officers' names and other information relating to them;
- information relating to some civilians; and
- the name of a police dog, the name of a specific drug operation, the acronym for a specific police unit, and the serial numbers of lost or stolen use-of-force equipment.

ISSUES:

- A. Do the records contain "personal information" as defined in section 2(1) and, if so, to whom does it relate?
- B. Does the mandatory exemption at section 14(1) apply to the information at issue?
- C. Is there a compelling public interest in the disclosure of the records that clearly outweighs the purpose of the section 14(1) exemption?
- D. Do the discretionary exemptions at sections 8(1)(a) and (e) apply to the records at issue?
- E. Should the fee be upheld?

DISCUSSION:

A. Do the records contain "personal information" as defined in section 2(1) and, if so, to whom does it relate?

[14] The police claim that the information relating to the officers identified in the records is exempt from disclosure under the personal privacy exemption in section 14(1) of the *Act*. However, section 14(1) only applies to "personal information." Consequently, it must be determined whether the information in the records relating to these officers qualifies as 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;

[15] 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.¹ To qualify as personal information, it must be reasonable to expect that an individual may be identified if the information is disclosed.²

[16] Section 2(2.1) of the *Act* excludes specific 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.

[17] In addition, previous IPC orders have found that to qualify as personal information, the information must be about the individual in a personal capacity. As a general rule, information associated with an individual in a professional, official or business capacity will not be considered to be "about" the individual.³ Even if information relates to an individual in a professional, official or business capacity, it may still qualify as personal information if the information reveals something of a personal nature about the individual.⁴

[18] The police state that the records at issue contain the personal information of the officers named in the occurrence reports, including their names, addresses, birth dates and personal accounts of the events surrounding the incidents. They submit that this information falls within the paragraphs (a) to (h) of the definition of personal information in section 2(1) of the *Act*.

[19] However, the appellant states that he is not seeking access to the personal information of any police officers in the records, such as their home addresses, home telephone numbers, or birth dates. Based on my review of the occurrence reports, I find this would also include other personal information such as the officers' sex, marital status, race/ethnicity, place of birth, citizenship, language(s) spoken, and personal vehicle information. In a phone conversation with an adjudication review officer, the appellant also stated that he is not seeking access to the personal information of civilians which may be included in the occurrence reports. Consequently, all of this

¹ Order 11.

² Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.).

³ Orders P-257, P-427, P-1412, P-1621, R-980015, MO-1550-F and PO-2225.

⁴ Orders P-1409, R-980015, PO-2225 and MO-2344.

personal information is not at issue and I will order the police to sever it from the occurrence reports.

[20] The current and former officers who provided representations all object to the disclosure of their names and other information relating to them. They claim that the records contain their "personal information." For example, some of the officers make the following submissions:

- "The record contains my personal information such as my name, rank, badge number and place of employment that would identify me, my sex and my occupation. As I am neither the complainant nor the victim in this incident, it is unnecessary that my position within [the police] be disclosed. . . . I was not acting in a professional, official or business capacity in relation to this incident."
- "I am a victim of stolen property and do not want my personal information released. The details in the General Occurrence Report are sufficient to explain the incident without causing me or others unnecessary embarrassment. I believe that the requester does not require my personal information that, if released, will be used solely for sensationalizing a story to embarrass me and other members of the [police]."
- "I strongly protest the release of any of my personal information in relation to the request. There was no negligence or intentional destruction of property on my part. There was also no internal discipline as a result. The release of this information would serve no other purpose other than allowing the requester to have my personal information on file for any future incidents that I may be involved in through the course of my employment."
- "[A]t no point do I wish to have my name and personal information released to any person outside of my employer . . ."
- "I believe that the information in the report is of a personal nature and do not wish it to be released . . . I believe that if this information is released that there will be unfair damage to my reputation."
- "I do not feel that the public interest is [in] any way served by the personal information being sought. I have an expectation that [the IPC] will recognize that personal details are not required for the appellant to conduct their business."

- "I do not believe disclosing my personal information will assist in satisfying the information request regarding this incident. There is no public interest in identifying my name in this report."

[21] I have considered the parties' representations and reviewed the records at issue. In my view, the police officers' names, job titles and work contact information in the records identify them in a professional, rather than a personal capacity. This information clearly falls within section 2(2.1) of the *Act*, which excludes such information from the definition of personal information. Consequently, I find that this information does not qualify as their personal information.

[22] In addition, previous IPC orders have found that a badge number does not qualify as personal information because it is associated with an officer in a professional, rather than a personal capacity.⁵ I agree with these previous orders. The badge numbers in the records are the officers' professional information and do not reveal anything of a personal nature about them. Accordingly, I find that these badge numbers do not qualify as the officers' personal information.

[23] The occurrence reports also include narratives written by the officers whose use-of-force equipment was lost or stolen. The police have disclosed these narratives to the appellant, but have withheld the officers' names. In my view, the information in these narratives relating to these officers is about their professional duties and does not reveal anything personal about them. Each of these individuals was assigned use-of-force equipment in their professional, not their personal capacity. Similarly, each officer had a professional duty to report the loss or theft of such equipment. The fact that these officers may be embarrassed by the disclosure of these narratives, in conjunction with their names, does not cause what is clearly professional information to be transformed into those officers' personal information.

[24] I find, therefore, that the information in the narratives written by the officers is associated with them in a professional, rather than a personal capacity. It does not reveal anything of a personal nature about them. Accordingly, I find that the information in these narratives does not qualify as their personal information.

[25] In short, I find that the officers' names, job titles, work contact information (business addresses⁶ and telephone numbers), badge numbers and the information in the narratives they provided, does not qualify as their personal information under the definition of that term in section 2(1). Instead, this information is associated with these officers in a professional capacity only. Given the personal privacy exemption in section

⁵ Orders MO-2050, MO-2112, MO-2252 and MO-2527.

⁶ In some occurrence reports, the field that reads "Residing at:" contain the officer's work address (e.g., a police detachment), not his or her home address.

14(1) only applies to "personal information," I find that this information cannot qualify for exemption under that provision.

[26] The police have withheld other information in the records, including the name of a police dog, the name of a specific drug operation, the acronym for a specific police unit, and the serial numbers of lost or stolen use-of-force equipment. None of this information qualifies as any individual's "personal information," and it cannot, therefore, be withheld under the personal privacy exemption in section 14(1).

[27] In these circumstances, it is not necessary to address Issues B (personal privacy) or C (public interest override) and I will move directly to Issue D.

D. Do the discretionary exemptions at sections 8(1)(a) and (e) apply to the records at issue?

Section 8(1)(a)

[28] As noted above, the police have withheld the name of a police dog, the name of a specific drug operation, the acronym for a specific police unit, and the serial numbers of lost or stolen use-of-force equipment.

[29] The police did not cite the section numbers of any of the law enforcement exemptions in section 8 of the *Act* in their decision letters to the appellant, nor were these exemptions raised in the mediator's report or in the police's representations during this inquiry. However, in their initial decision letter to the appellant, the police indicated that they would be withholding some information in the records "that could interfere with a law enforcement matter" which appears to be a reference to the discretionary law enforcement exemption in section 8(1)(a) of the *Act*. This provision states:

A head may refuse to disclose a record if the disclosure could reasonably be expected to,

interfere with a law enforcement matter;

[30] Where section 8 uses the words "could reasonably be expected to", the institution must provide "detailed and convincing" evidence to establish a "reasonable expectation of harm." Evidence amounting to speculation of possible harm is not sufficient.⁷

⁷ Order PO-2037, upheld on judicial review in *Ontario (Attorney General) v. Ontario (Information and Privacy Commissioner)*, [2003] O.J. No. 2182 (Div. Ct.), *Ontario (Workers' Compensation Board) v. Ontario (Assistant Information and Privacy Commissioner)* (1998), 41 O.R. (3d) 464 (C.A.).

[31] With respect to section 8(1)(a), the IPC has found that the matter in question must be ongoing or in existence.⁸ The exemption does not apply where the matter is completed, or where the alleged interference is with "potential" law enforcement matters.⁹ In the interests of completeness, I will consider whether this exemption applies to the non-personal information withheld by the police.

[32] Although the police have withheld the police dog's name, a simple Google search reveals that he is identified by name both on the police's own website¹⁰ and in media articles that highlight his prowess in capturing criminals.¹¹ Similarly, the name of the drug operation withheld by the police also appears on the police's own website¹² and has been reported in the media.¹³ In my view, disclosing information that is already in the public domain could not reasonably be expected to interfere with a law enforcement matter under section 8(1)(a).

[33] Moreover, I do not accept that disclosing the acronym of a specific police unit could reasonably be expected to interfere with a law enforcement matter under section 8(1)(a). The names of police units are generally in the public domain and it is difficult to see how disclosing such information could reasonably be expected to lead to the harms contemplated by section 8(1)(a).

[34] The lost or stolen use-of-force equipment identified in the records at issue in this particular appeal is mainly batons, handcuffs and pepper spray, not guns. The serial numbers of this lost or stolen equipment relate to law enforcement matters that are no longer ongoing or in existence. I find, therefore, that disclosing this information could not reasonably be expected to interfere with a law enforcement matter under section 8(1)(a).

[35] In the event that the police receive future access requests for records that include the serial numbers of lost or stolen use-of-force equipment, I would draw their attention to previous IPC orders that have found that the serial numbers of firearms qualify for exemption under section 8(1)(l), which allows an institution to refuse to disclose information that could reasonably be expected to facilitate the commission of

⁸ Order PO-2657.

⁹ Orders PO-2085 and MO-1578.

¹⁰ "K-9 Unit Stops by Ability Centre," Durham Regional Police Service website, July 18, 2012, at www.drps.ca/internet_explorer/whatsnew/whatsnew_view.asp?ID=22975.

¹¹ "Durham police dog makes Christmas Eve catch, nabs fleeing suspect," *Oshawa This Week*, Dec. 25, 2011 at www.durhamregion.com/news-story/3500936-durham-police-dog-makes-christmas-eve-catch-nabs-fleeing-suspect/.

¹² "[Name of drug operation] Stings Marihuana Growers," Durham Regional Police Service website, Oct. 13, 2010, at www.drps.ca/internet_explorer/whatsnew/whatsnew_view.asp?ID=17822.

¹³ "32 arrested in probe of outdoor marijuana grow-ops," *The Toronto Star*, Oct. 2, 2011, at www.thestar.com/news/gta/2011/10/03/32_arrested_in_probe_of_outdoor_marijuana_growops.html.

an unlawful act or hamper the control of crime.¹⁴ However, the IPC has also found that disclosing the serial numbers of other use-of-force equipment, such as handcuffs, batons or pepper spray, could not reasonably be expected to lead to the harms contemplated by section 8(1)(l).¹⁵

Section 8(1)(e)

[36] Some of the officers who provided representations claim that disclosing their names and other information relating to them in the records would endanger both them and their families. For example, they make the following submissions:

- "If my personal information is released there is a very strong potential for it to be shared without limits. If this occurs, my family will be put at risk as I have dealt with a very large number of violent criminals over my . . . career. I have had numerous threats placed against me and my family during my career. I have very real and serious concern for the safety of my family."
- "I do not consent to any of my personal information being given to the requesting body. I am currently assigned to a undercover unit where my identity is hidden from public view . . ."
- "[Disclosing any] further information . . . would be an unjustified invasion of privacy and may unfairly damage my safety as well as my reputation as a police officer."
- "I do take steps to conceal personal information to reduce any threats, damage or intimidation to me or my family as a result of my employment."
- "I still have family members who work for the [police] and for their safety and privacy, I would deny my name being released. I also am no longer associated with the [police] in any capacity and would like to remain as such."
- "I am frequently assigned to assist with investigations that require me to wear plain clothes. The effective execution of these undercover tasks depends on the fact that I am not identified as a police officer and I am therefore required to fervently guard my identity. Accordingly, I believe that disclosure of my name will make my work more dangerous and affect

¹⁴ Order PO-2455, upheld on judicial review on this point in *Ontario (Ministry of Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)* 231 O.A.C. 230. See also Order MO-2862.

¹⁵ Order MO-2862.

my safety and that of my family. I do not believe that the media, under the guise of 'investigative journalism' should be granted access to my name, badge number, or other personal information."

[37] In my view, these submissions amount to an argument that the discretionary law enforcement exemption in section 8(1)(e) applies to such information. This provision states:

A head may refuse to disclose a record if the disclosure could reasonably be expected to,

endanger the life or physical safety of a law enforcement officer or any other person;

[38] The police did not specifically raise this discretionary exemption in either their decision letters or their representations. However, given the nature of this exemption, I find that fair procedure requires that I consider its application, particularly given that it has been raised, albeit indirectly, by some of the officers whose information is found in the records.

[39] For section 8(1)(e) to apply, it is normally the institution that must provide evidence to establish a reasonable basis for believing that endangerment could result from disclosure. In the particular circumstances of this appeal, this onus falls on the police officers who are asserting that disclosing their names and other information relating to them in the records would endanger both them and their families. The reasons for resisting disclosure must not be frivolous or exaggerated.¹⁶ A person's subjective fear, while relevant, may not be sufficient to establish the application of the exemption.¹⁷

[40] The appellant has made it abundantly clear that he is not seeking access to the personal information of any police officers in the records, including their home addresses, birth dates and personal telephone numbers. In addition, I have found that this would also include other personal information such as the officers' sex, marital status, race/ethnicity, place of birth, citizenship, language(s) spoken, and personal vehicle information. Consequently, all of this information is not at issue in this appeal and I will order the police to sever it from the records.

[41] However, the appellant is seeking the officers' names, job titles, work contact information, badge numbers and the information in the narratives they provided. As noted above, the officers' names in the records identify them in a professional, not a personal, capacity. In addition, transparent and accountable policing generally requires

¹⁶ *Ontario (Information and Privacy Commissioner, Inquiry Officer) v. Ontario (Ministry of Labour, Office of the Worker Advisor)* (1999), 46 O.R. (3d) 395 (C.A.).

¹⁷ Order PO-2003.

that an officer's name and other professional information relating to that individual be accessible to the public.

[42] There may be circumstances in which disclosing an officer's name and other professional information could reasonably be expected to endanger the life or physical safety of an officer or his or her family, but such circumstances would be rare. In my view, the officers who provided representations have not proven that disclosing their names, job titles, work contact information, badge numbers or the information in the narratives they provided, could reasonably be expected to endanger the lives or physical safety of either them or their families.

[43] I am not persuaded that revealing the names and other professional information of those officers who state that they work "in plain clothes" or "undercover" could reasonably be expected to lead to the harms contemplated in section 8(1)(e). The particular records at issue in this appeal document the loss or theft of their use-of-force equipment in fairly routine circumstances and do not identify these officers as operating in a covert capacity. Consequently, it is difficult to see how disclosing their names and other professional information, as they appear in these particular records, could reasonably be expected to endanger their lives or physical safety or that of their families.

[44] In short, I find that the names and other professional information of the officers identified in the records do not qualify for exemption under section 8(1)(e).

E. Should the fee be upheld?

[45] The appellant has appealed the police's decision to require him to pay a \$348.20 fee for accessing the records.

[46] Where a fee exceeds \$25, an institution must provide the requester with a fee estimate.¹⁸ Where the fee is \$100 or more, the fee estimate may be based on either the actual work done by the institution to respond to the request, or a review of a representative sample of the records and/or the advice of an individual who is familiar with the type and content of the records.¹⁹

[47] The purpose of a fee estimate is to give the requester sufficient information to make an informed decision on whether or not to pay the fee and pursue access.²⁰

[48] In all cases, the institution must include a detailed breakdown of the fee, and a detailed statement as to how the fee was calculated.²¹

¹⁸ Section 45(3) of the *Act*.

¹⁹ Order MO-1699.

²⁰ Orders P-81, MO-1367, MO-1479, MO-1614 and MO-1699.

²¹ Orders P-81 and MO-1614.

[49] The IPC may review an institution's fee and determine whether it complies with the fee provisions in the *Act* and Regulation 823, as set out below.

[50] Section 45(1) requires an institution to charge fees for requests under the *Act*. That section reads:

A head shall require the person who makes a request for access to a record to pay fees in the amounts prescribed by the regulations for,

- (a) the costs of every hour of manual search required to locate a record;
- (b) the costs of preparing the record for disclosure;
- (c) computer and other costs incurred in locating, retrieving, processing and copying a record;
- (d) shipping costs; and
- (e) any other costs incurred in responding to a request for access to a record.

[51] More specific provisions regarding fees are found in section 6 of Regulation 823. The sections relevant to this appeal state:

6. The following are the fees that shall be charged for the purposes of subsection 45(1) of the *Act* for access to a record:

1. For photocopies and computer printouts, 20 cents per page.
- ...
3. For manually searching a record, \$7.50 for each 15 minutes spent by any person.
4. For preparing a record for disclosure, including severing a part of the record, \$7.50 for each 15 minutes spent by any person.

...

[52] In reviewing the \$348.20 fee that the police charged the appellant, I must consider whether it is reasonable, giving consideration to the content of the appellant's

request, the circumstances of the appeal and the provisions in section 45(1) of the *Act* and section 6 of Regulation 823.

[53] The burden of establishing the reasonableness of the fee rests with the police. To discharge this burden, the police must provide me with detailed information as to how the fee estimate was calculated in accordance with the provisions of the *Act*, and provide sufficient evidence to support their claim.

[54] The police submit that the \$348.20 fee was based on actual work they performed, including searching for, compiling and creating the three-page summary report and the occurrence reports. They provided the following breakdown of the fee and how it was calculated:

- Search time: 8 hours at \$30.00/hour - \$240.00
- Preparation time: 3 hours at \$30.00/hour - \$90.00
- Photocopying: 91 pages at 20 cents/page - \$18.20

[55] The appellant states that because he is not familiar with the police's records management system, he has no grounds to challenge the length of time required to extract the requested information. However, he submits that the \$348.20 fee is high, especially considering that another police service provided him with similar records at no cost.

[56] I find that the \$348.20 fee is reasonable. The police provided me with a proper breakdown of the time required to search for the records, the amount of time they needed to prepare the records for disclosure and the photocopying costs.

[57] The fee is based on the actual time required to perform the search and prepare the records for disclosure, at a rate of \$7.50 for each 15 minutes spent. This is an allowable cost under sections 45(1)(a) and (b) of the *Act*. Further, the rate of \$7.50 for each 15 minutes spent is allowable under items 3 and 4 of section 6 of Regulation 823. Finally, the rate of 20 cents per page for photocopies is allowable under item 1 of section 6 of Regulation 823.

[58] I am not persuaded by the appellant's submission that the police should not charge him a fee because another police service provided him similar records at no cost. The fee provisions in the *Act* are mandatory. Although section 45(4) of the *Act* requires an institution to waive fees, in whole or in part, in certain circumstances, fee waiver is not at issue in this appeal. Therefore, I uphold \$348.20 fee that the police charged the appellant for accessing the records.

ORDER:

1. I order the police to fully disclose the summary report and occurrence reports to the appellant, except for the following information, which must be severed:
 - (a) the police officers' home addresses, home telephone numbers, birth dates, sex, marital status, race/ethnicity, places of birth, citizenship, language(s) spoken, and personal vehicle information;
 - (b) the personal information of any civilians; and
 - (c) the information in the summary report that is not responsive to the appellant's request, including the names of those officers whose use-of-force equipment was replaced because it was damaged (i.e., not lost or stolen), and the incident numbers that do not relate to stolen, lost or missing equipment.
2. I have provided the police with a copy of the records and highlighted in green those parts that must be severed under order provision 1.
3. I order the police to disclose the records to the appellant by **August 14, 2013** but not before **August 9, 2013**.
4. I remain seized of any compliance issues that may arise with respect to this order and reserve the right to require the police to provide me with a copy of the records that they disclose to the appellant.
5. I uphold the \$348.20 fee that the police charged the appellant for accessing the records.

Original signed by: _____
Colin Bhattacharjee
Adjudicator

July 9, 2013 _____