Information and Privacy Commissioner,
Ontario, Canada

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

ORDER MO-3101

Appeal MA13-556

City of Toronto

September 29, 2014

Summary: The appellant, a company involved in the food service industry, sought access to records held by Toronto Public Health relating to one of its locations. The city responded by stating that the records are excluded from the operation of *Act* as a result of section 52(2.1) (records relating to an ongoing prosecution) because the city was in the process of prosecuting the appellant for violation of the city's "Holiday Shopping" by-law. This order finds that section 52(2.1) does not apply, as the requested records do not relate to a prosecution, and orders the city to provide an access decision to the appellant.

Statutes Considered: *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, section 52(2.1).

Orders Considered: Orders PO-2703 and PO-3640.

Case Considered: *Ministry of the Attorney General and Toronto Star and Information and Privacy Commissioner,* 2010 ONSC 991 (CanLII), March 26, 2010, Tor. Doc. 34/91 (Div. Ct.).

OVERVIEW:

[1] The appellant, a company involved in the food service industry, has a number of retail locations in the City of Toronto (the city). Because of its involvement in the food service industry, Toronto Public Health is involved in inspections and in responding to health-related complaints about the various locations operated by the appellant. Because it is a retail establishment, the appellant is also subject to the requirements

relating to holiday shopping, set out in the city's *Municipal Code* Chapter 510, (the city's by-law regulating "Holiday Shopping").

[2] The city states that in August of 2013 it commenced a proceeding before the Ontario Court of Justice under the *Provincial Offences Act*, concerning potential violations of the city's *Municipal Code* Chapter 510, related to various business locations operated by the appellant on a holiday (July 1, 2013 - Canada Day). The city refers to these proceedings as the "First Prosecutions."

[3] The city also states that further proceedings before the Ontario Court of Justice under the *Provincial Offences Act* were commenced in September of 2013, also concerning potential violations of the city's *Municipal Code* Chapter 510, related to various business locations operated by the appellant on a holiday (September 2, 2013 - Labour Day). The city refers to these as the "Second Prosecutions."

[4] The city confirms that the First and Second Prosecutions relate to various locations operated by the appellant, including the location which is the subject of the request resulting in this appeal.

[5] In September of 2013, the appellant made a request to the city under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for records in the Public Health Division of the city, seeking the following information:

> We request full disclosure of all information regarding [the appellant] located at [one identified location] which [includes] files on all complaints, all investigations, all photos, all reports, all resolutions, and all findings from January 01, 2010 to September 10, 2013.

[6] In response, the city issued a decision advising that access to the requested information was denied on the basis of the exclusionary provision in section 52(2.1) of the *Act* (ongoing prosecution).

[7] The appellant, through its representative, appealed the city's decision.

[8] During mediation, the appellant took the position that the requested records do not relate to the current prosecution(s). The city maintained its position that section 52(2.1) of the *Act* applies.

[9] Mediation did not resolve this appeal, and it was transferred to the inquiry stage of the appeal process, where an adjudicator conducts an inquiry under the *Act*. I decided to send a Notice of Inquiry identifying the facts and issues in this appeal to the city, initially. The city provided representations in response, and I sent them, along with the Notice of Inquiry, to the appellant, who also provided representations. The

city was then invited to respond to the representations of the appellant, which it did with reply representations.

[10] In this order, I find that section 52(2.1) does not apply as the requested records do not relate to a prosecution. As a result, I order to the city to provide an access decision to the appellant.

RECORDS:

[11] There are 57 pages of records at issue in this appeal, including emails, complaints and reports.

ISSUES:

[12] The sole issue in this appeal is whether the records at issue are excluded from the *Act* as a result of the operation of section 52(2.1), which reads:

> This Act does not apply to a record relating to a prosecution if all proceedings in respect of the prosecution have not been completed.

General principles

[13] The purposes of section 52(2.1) include maintaining the integrity of the criminal justice system, ensuring that the accused and the Crown's right to a fair trial is not infringed, protecting solicitor-client privilege and litigation privilege, and controlling the dissemination and publication of records relating to an ongoing prosecution.[1]

[14] The term "prosecution" in section 52(2.1) of the *Act* means proceedings in respect of a criminal or quasi-criminal charge laid under an enactment of Ontario or Canada and may include regulatory offences that carry "true penal consequences" such as imprisonment or a significant fine.[2]

[15] The words "relating to" require some connection between "a record" and "a prosecution." The words "in respect of" require some connection between "a proceeding" and "a prosecution."[3]

[16] Only after the expiration of any appeal period can it be said that all proceedings in respect of the prosecution have been completed. This question will have to be decided based on the facts of each case.[4]

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[1] *Ministry of the Attorney General and Toronto Star and Information and Privacy Commissioner*, 2010 ONSC 991 (CanLII), March 26, 2010, Tor. Doc. 34/91 (Div. Ct.).
[2] Order PO-2703.
[3] *Toronto Star*, cited above. See also *Canada (Information Commissioner) v. Canada (Commissioner, RCMP),* 2003 SCC 8, [2003] 1 S.C.R. 66 at para. 25.

Burden of proof

[17] In its representations, the city refers to the fact that the Notice of Inquiry refers to the burden of proof established by section 42 of the *Act*. This section states:

> If a head refuses access to a record or part of a record, the burden of proof that the record or the part falls within one of the specified exemptions in the Act lies upon the head.

[18] The city notes that this burden of proof is relevant only to establishing the burden of proof that the content of a record falls within one of "the specified exemptions" of the *Act*, and that this section has no relevance to the current appeal. It states that the sole issue in the current appeal is a jurisdictional one – namely - whether or not the *Act* applies.

[19] The city then confirms that this office has previously established that the onus of proof for a proposition lies with the party who is advancing it. It also refers to the case of *Dow Chemical of Canada v. Pritchard*[5] which determined that "the onus of proving information that is peculiarly within the knowledge of a party, will rest with that party."

[20] The city then argues that, in the current appeal, it is the appellant that is advancing a proposition: i.e. that the *Act* applies to "all information" regarding the specified location, which is currently the matter of a prosecution. It states:

> In the current circumstances, the proposition that must be established is [the appellant's] allegation that the general right of access provided by section 4 of [the *Act*] applies to documents responsive to the request, and not whether an exemption … to deny access applies.

[21] In support of its position, the city states:

> … one of the purposes of the section 52(2.1) exemption is to ensure that on-going prosecution[s] are not impeded by requiring institutions to have to address access-to-information requests related thereto. Imposing an onus on the city to disprove unsupported allegations that a request for "all complaints, investigations, photos, reports, resolutions and findings" with respect to [the identified location] - a location that is the subject matter of current on-going prosecutions - is not consistent with the purpose of the exclusion.

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[4] Order PO-2703.
[5] [1970] OJ. No. 829 (H.C.J.).

> … in the current situation, it is [the appellant] that must establish that the general right of access applies, by establishing that the barrier to this general right created by section 52(2.1) is not applicable.

[22] The city then also provides the following, ancillary argument:

> Alternatively, the city submits that if an onus is imposed on the city to establish that section 52(2.1) does apply, any onus on the city cannot be absolute, as whether or not a record has or will have a connection to a prosecution, is not a matter which is primarily or entirely within the knowledge of the city. The city cannot be required to disprove potential connections between a document and a proceeding - where knowledge of the particulars of the connection is outside of its knowledge.
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> Whether a document responsive to a request may have a connection to a prosecution depends not only on the actions of the Prosecutor, but also the defendant, or intervener in a prosecution or an appellant or applicant in a related proceeding. In this case, the city's knowledge is limited to the information related to the prosecutor in the First and Second Prosecution.

[23] In its reply representations, the city reviews its record-holdings relating to both the health-related complaints (which represent the subject matter of the records at issue), and the "First" and "Second" prosecutions which relate only to prosecutions for holiday shopping. The city also notes that the request for information in this appeal, (and similar requests by the appellant relating to other records and/or locations) was submitted by the appellant very shortly after the "First Prosecutions" were commenced.

[24] The city then states:

> … the City has alleged that section 52(2.1) applies …, and [the appellant] states it does not. While the City agrees that in such a determination, the City may need to advance information to establish the application of section 52(2.1), some information necessary to determine the question of jurisdiction is unknown to the City, and lies squarely with [the appellant], as such the onus imposed on the City concerning the application of [the *Act*] cannot be absolute.
>
> In particular, confirmation of whether or not [the appellant] is intending to use this information in relation to a proceeding related to a prosecution, … has not been provided to the IPC.
>
> The City has reasonably assumed, in the absence of this information, however, based on [the appellant's] pattern of conduct and the nature of

> the information in question that there some connection between this information, and a proceeding relating to a prosecution.

[25] Previous orders have considered the issue of the burden of proof in circumstances where an exemption claim is not at issue. As noted by the city, this office has previously established that the onus of proof for a proposition lies with the party who is advancing it. In Order MO-2439, former Senior Adjudicator John Higgins reviewed the onus of proof in circumstances when exemptions are not at issue. In that appeal, the senior adjudicator had to determine whether the confidentiality provision in section 181 of the *City of Toronto Act, 2006* (COTA) applied and prevailed over the *Act*. In his discussion of the burden of proof, he stated:

> I agree with the city that section 181 of the *COTA* is not an exemption under the *Act*, and strictly speaking, section 42 therefore does not apply. However, for the reasons that follow, I do not agree that section 181 of the *COTA*, … has the effect of creating an onus on requesters to prove that it does not apply.
>
> Although section 42 is not strictly applicable as assigning an onus of proof where an institution relies on a confidentiality provision in another statute, rather than an exemption under the *Act*, I believe that this section still provides assistance in assessing the question of onus. In my view, section 42 indicates an intention on the part of the Legislature that, where a record is in the custody or under the control of an institution such as the City, the onus of proving non-accessibility under the *Act* rests with the institution. This is consistent with the purpose of the *Act* in section 1(a)(i) to "provide a right of access to information under the control of institutions in accordance with the principle[] that … information should be available to the public."
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> Even without relying on section 42, the City's argument that the burden of proof in this case falls on the appellant is without merit and unsustainable in law.
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> Section 4(1) of the *Act* stipulates that "[e]very person has a right of access to a record or part of a record under the custody or control of an institution unless …" the record is exempt under sections 6 to 15 or the request is frivolous or vexatious. This is the primary section establishing that the *Act* applies to the record holdings of institutions. There are several other sections setting out instances where the *Act* either does not apply (section 52), or records are not accessible because of a prevailing confidentiality provision (section 53). As noted above, the City relies on section 53 in conjunction with section 181 of the *COTA*.

> Based on section 53 of the *Act* and section 181 of the *COTA*, the City seeks to prove that records which would otherwise be accessible under the *Act*, as stipulated by section 4(1), are in fact not accessible because of a prevailing confidentiality provision. The City thus seeks to oust the accessibility of records under the *Act*, which would otherwise be subject to the access scheme established under the *Act* for records under the City's custody or control.
>
> Seen in that light, it is clear that section 4(1) of the *Act* establishes a positive right of access on which members of the public are entitled to rely. The City wishes to remove the requested record from that positive right. In my view, the law of evidentiary burdens would place the onus of proof to accomplish that objective on the City. Failure by the City to establish the application of section 181(1) of the *COTA* will have the result that the City does not succeed on this point, and the *Act* would be found to apply.[6]
>
> It is also unfair, unreasonable, and contrary to the purpose of the *Act*, cited above, for the City to suggest that requesters have the onus of disproving that section 181 of the *COTA* applies to records they have requested. To discharge such an onus, a requester would need: (1) detailed knowledge of the City's record holdings; (2) knowledge of the precise nature of what records exist in the City's record holdings that may be responsive to his or her request, and (3) knowledge of where copies of such records would be located within the City's records. This information would rarely, if ever, be known to a requester. As noted in *Dow Chemical of Canada v. Pritchard*, [1970] O.J. No. 829 (H.C.J.), the onus of proving information that is peculiarly within the knowledge of a party rests with that party, in this case, the City.
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> For all these reasons, I find that the burden of proving the application of section 181 of the *COTA*, in conjunction with section 53 of the *Act*, falls on the City in this appeal.

[26] I adopt the conclusions of former Senior Adjudicator Higgins, and apply them to the circumstances of this appeal.

[27] In this appeal, the city takes the position that records which would otherwise be accessible under the *Act*, as stipulated by section 4(1), are not accessible because of the application of the exclusion in section 52(2.1). The law of evidentiary burdens places the onus of proof to establish that on the city, and failure by the city to establish the application of section 52(2.1) will result in a finding that the *Act* applies.

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[6] The former Senior Adjudicator refers to *The Law of Evidence in Canada* by John Sopinka, Sidney N. Lederman and Alan W. Bryant (Markham: Butterworths, 1992) at p. 57.).

[28] I also agree with the former senior adjudicator that it is unfair, unreasonable, and contrary to the purpose of the *Act* to suggest that requesters have the onus of disproving that the exclusion applies. As stated in Order MO-2439, this would require a requester to have: (1) detailed knowledge of the city's record holdings; (2) knowledge of the precise nature of what records exist in the city's record holdings that may be responsive to the request, and (3) knowledge of where copies of such records would be located within the city's records. This information would rarely, if ever, be known to a requester. As noted in *Dow Chemical of Canada v. Pritchard*, the onus of proving information that is peculiarly within the knowledge of a party rests with that party. In this case, the city is that party, as it has the records.

[29] As a result, I find that the burden of proving the application of section 52(2.1) of the *Act* falls on the city in this appeal.

[30] Lastly, the city takes the position that, if there is an onus on it to establish that section 52(2.1) does apply, this onus cannot "be absolute." It states that the city cannot be required to disprove potential connections between a document and a proceeding, if knowledge of the particulars of the connection is not within the city's knowledge.

[31] In my view, this alternative argument does not go to the issue of which party has the burden of proof, but rather, it goes to the weight of the evidence regarding whether the exclusion applies. This evidence can be found, *inter alia*, in the representations of the parties, the circumstances of the appeal, and the records themselves. I review the evidence in this appeal regarding whether section 52(2.1) applies below.

Representations on whether section 52(2.1) applies

The city's initial representations

[32] The city states that the request in this appeal relates generally to the city's law enforcement activities concerning the location operated by the appellant. It also states that the appellant's other requests for similar information relating to other locations include locations which were the subject of previous health-related prosecutions.

[33] The city claims section 52(2.1) in response to the request, and states that it is currently in the process of proceeding with the "First" and "Second" prosecutions. It also confirms that the on-going prosecutions concern the very location operated by the appellant that is the subject of the access request in this appeal.

[34] The city then states:

> Although, the access request speaks to "full disclosure" - the City processed this request for access, in parallel to the formal disclosure process applicable in the context of the First and Second Prosecutions. The City provided disclosure to [the appellant's representative] with respect to the prosecutions commenced with respect to [the identified location]. With respect to First Prosecutions disclosure was made at the "first appearance" court attendance held [in December of 2013]; and with respect to the Second Prosecutions, disclosure was made at the adjourned "first appearance" court attendance held [in October of 2013].

[35] Regarding the application of the exclusion in section 52(2.1) the city refers to the following three elements that must be established for the section 52(2.1) exclusion to apply:[7]

- There is a prosecution.
- There is some connection between the record and a prosecution.
- All of the proceedings with respect to the prosecution have not been completed.

[36] The city then states that, in the current matter, there is "no possibility of dispute concerning the fact that the first and third elements have been established." It states:

> There are currently multiple prosecutions proceeding involving [the appellant] and the City. The City submits that a proceeding before the Ontario Court of Justice under the *Provincial Offences Act* concerning potential violations of a municipal by-law would constitute a "prosecution" for purposes of section 52(2.1); as these offences carry "true penal consequences" as noted in Order PO-2703.
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> Whether a prosecution and all proceedings related thereto are concluded, is a matter that must be decided on the facts of the situation. Currently, as noted above, the City has commenced prosecutions for the offences of "Sell or Offer Any Goods or Services for Sale on a Holiday," contrary to section 510-2A of Chapter 510 at the very location which is the subject of the current request, along with other locations. By any metric - it cannot be stated that the two sets of prosecutions are concluded - at the time of the request, the prosecutions were in the process of being commenced, or had just recently been commenced.

[7] See Order PO-3260.

[37] The city then summarizes the various court dates and appearances, and confirms that all "matters related to this prosecution" are not concluded.

[38] The city then posits that the only outstanding issue is whether there is "some connection" between the subject matter of the request, and the on-going prosecutions. It states:

> The City cannot answer this definitively, as whether or not documents have a connection to the current prosecution relies not only upon the City as a prosecutor, but the actions of the defendant - who in this case is the requester and the current appellant. However, the City submits, that the subject matter of the request would have "some connection" to the on-going prosecutions related to [the appellant].
>
> What is known, is that [the appellant] - the operator of the defendant in the First and Second Prosecutions - has requested "full disclosure" of "all information" held by the City, for the very location which is the subject of the First and Second Prosecutions, during the time period which includes the investigation and commencement of the prosecution. There will be some factual relationship between the content of these records (i.e. the location of the investigation, etc.) and the records, which are currently proposed to be used in the prosecution, by the City. … the City notes [that the appellant] has made additional access requests dealing with previous investigations and law enforcement activities during the last three and a half years concerning [the appellant's] locations, the content of these records being the subject matter of other on-going appeals involving [the appellant] currently before the IPC.

[39] The city then states that while it may believe that all of the information relevant to the First and Second Prosecutions, has been produced in accordance with the City's disclosure obligations, the defendant may have a different opinion, and is seeking additional disclosure. It states:

> While the City believes that all information that the City as Prosecutor believes can reasonably be used by the defence to meeting the case advanced in the First and Second Prosecution, or otherwise in making a decision which may affect the conduct of the trials (such as the decision to call evidence on a point) has been presented to [the appellant], this may not be the opinion held by [the appellant]. Perhaps, [the appellant] is attempting to undertake research in preparation for actions related to the First and Second Prosecutions. The purpose of s.52(2.1) is to prevent such uses of [the *Act*], as to preserve the integrity of the court system, by requiring such research to be undertaken within the context of the processes established for the exchange of information in these contexts.

[40] The city then distinguishes this appeal from the finding in Order PO-3260. It states:

> While the City is unable to conclude with certainty as to the purpose or motivation for the current request, this is unlike the situation in Order PO-3260, as there is some connection to the subject matter of the current request and the First and Second Prosecutions. The City notes that in Order PO-3260, the request was by a third party - and not the defendant - for "probation" records relating to a concluded prosecution that was completely unrelated to the criminal proceedings subsequently having been commenced in another province. In the current circumstances, it is the defendant who has filed a request days after one prosecution had been commenced, and another investigation conducted seeking "full disclosure" of enforcement activities for the last several years, at the location.

[41] The city then confirms that the request was made "at the same time as numerous other requests for information relating to past and present enforcement and investigation efforts concerning [the appellant's] operations …." The city states that it believes that "the conduct of [the appellant] establishes a belief that the information has some connection to the current prosecution."

[42] The city then reviews the purposes for section 52(2.1) and states that a finding that this section applies would meet the purposes of this section of the *Act*. It concludes by stating that it "does not believe that it is reasonable to conclude in these circumstances that, in the absence of information to the contrary, that the current requests are unrelated to the current prosecutions against [the appellant]."

The appellant's representations

[43] The appellant also refers to the *Toronto Star* decision[8] and its finding that there must be "some connection" between the records and the prosecution. The appellant argues that there is no connection between the records at issue in this appeal and the prosecution. It states:

> Neither proceeding (the First or the Second prosecutions) involved Public Health, or anything to do with health records. The two infractions were strictly related to the operation of business on a single specified holiday.

[8] See footnote 1, above.

[44] It then states:

> The Access Request that is the subject of this appeal was made … to Toronto Public Health.
>
> The purported prosecutions pertaining to [the appellant's locations] are narrow and specific proceedings. They relate strictly to the sale of goods on a single specified date, and have nothing whatsoever to do with Public Health, which is the subject of the within Access Request.
>
> There is no reasonable basis to believe that the investigation into the sale of goods on a single date would in any way involve the files requested in the within Access Request.

[45] In reply, the city notes that the test is not whether a document relates to an investigation, but rather a proceeding that is related to a prosecution. It also states that the subject matter of the requests could have "some connection" to the on-going prosecutions, and identifies "other methods" in which the requested documents could have some connection to the current prosecutions. It states:

> For example, [the appellant] could not share the City's opinion [that it got full disclosure in the prosecutions] and is seeking additional disclosure, believing that this information is relevant to advancing a defence, or otherwise in making a decision which may affect the conduct of the trials (such as the decision to call evidence on a point). One example is that [the appellant] may be seeking to undertake actions related [to] the current prosecutions and is seeking the documents in support of a Charter challenge to the current prosecution (for example, a motion as was advanced in the last prosecutions in support [of the appellant's] allegations of enforcement behavior "singling" out [the appellant] in contravention of the Charter). Perhaps, [the appellant] may be seeking to undertake actions related to previous prosecutions; and is attempting to utilize [the *Act*] to obtain disclosure of information, outside of the processes established for these purposes.

[46] The city also states that the appellant could have disproved potential connections between a document and a proceeding by stating that it is aware of no proceeding that; a) is not concluded; b) relates to a prosecution; and c) has some connection to the documents in question. The city states that the appellant has "refused to provide this information - which is entirely within their knowledge."

[47] The city concludes by reviewing the purpose of section 52(2.1) and stating:

> In the current circumstances, it is [the appellant] who has filed a request days after one prosecution had been commenced, and another investigation conducted, as part of a pattern of requests. The city believes that the conduct of [the appellant] establishes a belief that the information has "some connection" to the current prosecution.

Analysis and findings

[48] In order for the exclusion in section 52(2.1) to apply, the party relying on section 52(2.1) must establish that:

- There is a prosecution.
- There is some connection between the record and a prosecution.
- All of the proceedings with respect to the prosecution have not been completed.[9]

[49] The issue before me is whether there exists "some connection" between the records at issue and the First and Second prosecutions.

[50] The Divisional Court addressed this part of the provincial equivalent of the section 52(2.1) exclusion in the *Toronto Star* decision, cited above. Its analysis included an examination of the purposes of the exclusion in section 52(2.1), which it described as follows:

> We agree with the Ministry's submissions that there are additional important purposes underlying [section 52(2.1)], including the following:
>
> > 1) to ensure that the accused, the Crown and the public's right to a fair trial is not jeopardized by the premature production of prosecution materials to third parties; and
> >
> > 2) to ensure that the protection of solicitor-client and litigation privilege is not unduly jeopardized by the production of prosecution materials.
>
> The purposes of [section 52(2.1) … include maintaining the integrity of criminal justice system and ensuring that the accused and the Crown's right to a fair trial is not infringed, protecting solicitor-client and litigation privilege, and controlling the dissemination and publication of records relating to an ongoing prosecution …

[9] See Order PO-3260.

[51] In this appeal, the request is clearly for records maintained by the city's Public Health Division. However, the ongoing prosecutions relate to possible violations of the city's "holiday shopping" by-law.

[52] The city, which is conducting the ongoing prosecutions, has not provided evidence that it intends to rely on the records at issue, which relate to possible health violations, in the prosecutions, which relate solely to the possible violation of the city's holiday shopping by-law. The city speculates as to how the appellant might use the records in the prosecutions. The only real evidence provided by the city about a connection between the records and the ongoing prosecutions is the fact that both relate to the same location, and that the request in this appeal (and other requests made by the appellant) was made very shortly after one of the current prosecutions was commenced, and while the other investigation was ongoing. It states that the conduct of the appellant establishes a belief that the information has "some connection" to the current prosecutions.

[53] I have reviewed the representations of the parties, including the city's summary of the circumstances surrounding this request and other similar requests made by the appellant. I have also reviewed the records at issue in this appeal, which relate exclusively to complaints and investigations of health-related matters.

[54] In my view, the records at issue in this appeal are not "prosecution materials" as contemplated by the court in *Toronto Star.* There is no evidence that the city will be relying on the records as part of its case in the ongoing prosecutions. As found in Order PO-3260, even if the exclusion could protect a broader range of materials than those relevant to the prosecutor's case or the conduct of the proceeding, the evidence in this appeal does not establish the requisite relationship between the records and the proceedings in the prosecutions. I find that the records at issue in this appeal do not fall within the ambit of the section 52(2.1) exclusion as they are not "records relating to a prosecution". The city's speculations about potential use of the information by the appellant provide no basis for finding that they do. On my review of the representations, the records and the circumstances of this appeal, I find that the city has not provided sufficient evidence to establish "some connection" between the records at issue and the First and Second prosecutions.

[55] Because the records are not excluded from the operation of the *Act*, I will require the city to issue a decision respecting access to them.

ORDER:

I order the city to provide the appellant with a decision respecting access to the requested records, as contemplated by section 19 of the *Act*, treating the date of this order as the date of the request.

Original Signed By: September 29, 2014
Frank DeVries
Adjudicator