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

ORDER M-875

Appeal M_9600267

London Police Services Board

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NATURE OF THE APPEAL:

On April 4, 1996, the requester, who is a member of the media, asked the London Police Services Board (the Police) for information relating to two separate tips received by the London and District chapter of Crime Stoppers Inc. (Crime Stoppers). One of these tips caused the Police to issue a search warrant and to eventually lay criminal charges against a number of individuals in connection with a child pornography ring.

The requester sought specific access to (1) copies of the telephone tapes of the calls made to Crime Stoppers, (2) the printed verbatim transcript of the telephone tapes and (3) copies of an application for a search warrant, the search warrant, itself, and the "return" documents.

With respect to parts one and two of the request, the Police advised the requester that Crime Stoppers is not an institution for the purposes of section 2(1) of the Municipal Freedom of Information and Protection of Privacy Act (the Act). On this basis, the Police took the position that these records were not accessible under the Act. The Police later indicated to the requester that they did not have copies of the tapes and transcripts in their possession.

The Police located the records that were responsive to part three of the request but denied access to these documents in full based on the following exemptions contained in the Act:

- law enforcement - sections 8(1)(b) and (d)
- right to a fair trial - section 8(1)(f)
- invasion of privacy - section 14(1)

The requester (now the appellant) appealed the decision of the Police to the Commissioner's office.

During the mediation stage of the appeal, the appellant advised the Appeals Officer that he is not seeking access to any names which may appear in the records at issue. He also took the position that either the Police and/or Crime Stoppers should have additional records in their custody which are responsive to part two of his request.

Further mediation was not successful and a Notice of Inquiry was provided to the appellant, the Police and Crime Stoppers. Representations were received from all three parties.

In his representations, the appellant took the position that there exists a compelling public interest in the disclosure of the records which outweighs the invasion of privacy exemption.

PRELIMINARY MATTERS:

The appellant asks that the Commissioner's office structure the inquiry to allow him to obtain more information on why the Police have decided not to release the records.

More specifically, he wishes to obtain access to (1) the notes prepared by the Appeals Officer (or a summary) of her discussions with the Police and (2) the written representations of the Police (including any affidavit material) sent to the Commissioner's office in response to the Notice of

Inquiry. Finally, the appellant requests that the Commissioner's office convene an oral hearing to obtain the submissions of the parties.

I will address each of these matters below.

Access to Notes Prepared by the Appeals Officer

I have reviewed the contents of the appeal file and can confirm that they contain a series of notes of the Appeals Officer's conversations with the Police's Freedom of Information and Privacy Co-ordinator. These discussions took place during the mediation (or pre-inquiry) stage of the appeals process.

In Order P-537, Inquiry Officer Anita Fineberg considered the question of whether an appellant is entitled to obtain access to any correspondence exchanged between the Commissioner's office and an institution during the course of an appeal.

She concluded that where the documents are supplied to the Commissioner's office during the *inquiry* stage of the process, section 52(9) of the Freedom of Information and Protection of Privacy Act (the provincial Act) prohibits the disclosure of the materials received. Section 41(9) of the Act, which is identical to section 52(9) of the provincial Act, specifies that:

> Anything said or any information supplied or any document or thing produced by a person in the course of an inquiry by the Commissioner under this Act is privileged in the same manner as if the inquiry were a proceeding in a court.

Inquiry Officer Fineberg then went on to discuss whether the same result would apply if the provision of this information took place during the *pre-inquiry* stage of the appeals process. At the outset, she noted that section 51 of the provincial Act, which is identical to section 40 of the Act, authorizes the Commissioner to appoint a mediator to investigate the circumstances of an appeal and to try to effect a settlement of the matter in question.

Inquiry Officer Fineberg then reasoned that the documents which the institution provided to the Commissioner's office during the pre-inquiry stage of the appeal, should not be disclosed to the appellant for several reasons. For the purposes of the present appeal, the most relevant of these are the following:

(1) Section 55(1) of the provincial Act prohibits the Commissioner or any person acting on his behalf of or under his direction from disclosing any information that comes to their knowledge in the performance of their powers, duties and functions under this legislation or any other Act. (this provision applies to proceedings conducted under the Act)

(2) To grant access to such materials would encourage duplicate appeal proceedings and militate against finality in the appeals process.

(3) The Commissioner's office has a right to control its own process.

I agree with the reasoning outlined in Order P-537 and adopt it for the purposes of this appeal. In the present case, the appellant is seeking access to the notes transcribed by the Appeals Officer, as opposed to written correspondence which the Police directly provided to the Commissioner's office. I have concluded, however, that the disclosure of these notes would reveal the actual information exchanged between the Police and the Commissioner's office.

I also believe that if the notes taken by an Appeals Officer during the mediation of an appeal are subject to disclosure, the settlement process prescribed in the Act could become less effective. This would occur because the parties would be less willing to discuss their interests and negotiating positions with the Appeals Officer in a complete and forthright manner.

Based, therefore, on the non-disclosure considerations outlined in Order P-537 and the need to preserve the effectiveness of the mediation process, I find that the appellant is not entitled to obtain access to the notes in the present appeal.

Access to the Representations of the Police

The appellant has also asked to obtain a copy of the representations (including any affidavit materials) provided to the Commissioner's office by the Police.

To address this application, I must consider section 41(13) of the Act which states that:

> The person who requested access to the record, the head of the institution concerned and any affected party shall be given an opportunity to make representations to the Commissioner, but no person is entitled to be present during, to have access to or to comment on representations made to the Commissioner by any other person.

A number of previous orders have interpreted the scope of this provision. In Order 164, former Commissioner Sidney B. Linden pointed out that section 52(13) of the provincial Act (which is identical to section 41(13) of the Act) does not confer a *right* on a party to an appeal to obtain access to the other party's representations.

Commissioner Linden also noted, however, that section 52(13) does not *prohibit* the Commissioner from ordering such access in the proper case. He emphasized, though, that it would be "an extremely unusual case" where such an order would be issued.

In the same order, Commissioner Linden acknowledged that, while procedural fairness requires some degree of mutual disclosure of the arguments and evidence of the parties, the procedures established by the Commissioner's office allow the parties a considerable degree of such disclosure.

The main vehicle for such disclosure is now the Notice of Inquiry which (1) generally describes the records at issue, (2) summarizes the issues in the appeal and (3) sets out the statutory provisions and/or tests which an institution or other party must meet in order to successfully apply an exemption.

I have carefully reviewed the representations of the Police and appellant, as well as the Notice of Inquiry which was sent to the parties in this appeal. I find that, based on the circumstances of this case, the appellant does not require access to these submissions of the Police (including the accompanying affidavit materials) in order to make full argument on all the issues in this appeal.

On this basis, and pursuant to section 41(13) of the Act, I conclude that this is not a case where the Commissioner's office should order that the representations of the Police be disclosed to the appellant.

Request to Convene a Hearing

The appellant has also requested that the Commissioner's office convene an oral hearing to adjudicate this appeal.

It is the usual practice of the Commissioner's office to invite the parties involved in an inquiry to submit their representations in writing. The parties to this appeal have provided detailed and well articulated written submissions which fully address the issues raised in this appeal. On the basis that the appellant's representations are clear and understandable, I have decided that this is not a situation where it would be appropriate to depart from the Commission's usual approach for the receipt of representations.

DISCUSSION:

REASONABLENESS OF SEARCH

Part One of the Request

In this part of his request, the appellant sought access to the telephone tapes of phone calls made to Crime Stoppers.

According to the Police, when Crime Stoppers receives a tip over the telephone, its contents can be recorded in one of two ways. If an individual is available to take the call, the tip is manually recorded on a form called a "Crime Stoppers Log". In this situation, the conversation is not taped. Where, however, there is no one available to answer the phone, the "tipster" may leave a recorded telephone message instead.

In both instances, the information obtained is used to prepare a Confidential Report which outlines the details of the tip in a prescribed format.

The Police have advised the Commissioner's office that Crime Stoppers *manually* recorded the two tips which are the subject of the present appeal. On this basis, I find that there does not exist a record which is directly responsive to part one of the appellant's request.

Part Two of the Request

In his representations, the appellant takes the position that additional records relating to the second part of his request (the transcription of the tip received by Crime Stoppers) should exist either with the Police or at Crime Stoppers.

The appellant reasons that when the search warrant relating to the tip was issued, the Police clearly had the transcription materials in their possession. He also believes that it is the present policy of the Police to retain copies of these records.

In their representations, the Police indicate that the tips which they receive from Crime Stoppers are contained in a "Crime Stoppers Information Package". This collection of documents includes the Confidential Report (the Report), which is the computer printout of the tip and a Supplementary Report. This latter document is a blank form filled out by the investigating Officer which indicates whether the tip was successful.

The Police also point out that Crime Stoppers does not provide copies of its log entries to the Police. They also confirm that they are not in possession of the entries that relate to these two tips. I accept this explanation.

Based on the evidence provided to me, I am satisfied that the Police do not have physical possession of any Crime Stopper logs relating to the tips in question.

The Police indicate that the records which they consider responsive to part two of the request are the Reports. They go on to point out that they received two such Reports from Crime Stoppers which relate to the present case.

In this section of the order, I will consider whether the search undertaken by the Police for these Reports was reasonable in the circumstances of this appeal.

In their representations, the Police point out that, as a general rule, they retain the materials provided to them by Crime Stoppers for only a short period of time. Once the information is assessed, it is immediately returned to Crime Stoppers. The Police emphasize that this information is never kept on file indefinitely.

Along with its representations, the Police submitted two affidavits sworn by a Police Sergeant and a Detective Constable of the Police who received the Crime Stopper's materials in this case and who conducted the relevant investigations. The affidavits state that the Police did not retain the two Crime Stoppers information packages.

The Police also confirm that the materials relating to the most recent tip were returned to Crime Stoppers in mid-April 1995, shortly after a search warrant was executed. Finally, the Police's Freedom of Information and Privacy Coordinator states that he personally reviewed all occurrence and criminal records maintained in the Police's Administrative Services Division pertaining to this case and was unable to locate either of the Reports.

Where a requester provides sufficient details about the records which he or she is seeking and the Police indicate that particular records do not exist, it is my responsibility to ensure that the Police have made a reasonable search to identify any records which are responsive to the request.

While the Act does not require that the Police prove to the degree of absolute certainty that such records do not exist, the search which an institution undertakes must be conducted by knowledgeable staff in locations where the records in question might reasonably be located.

I have carefully reviewed the evidence provided by the parties. I am satisfied that the two Reports were not in the physical possession of the Police on the date that the request was filed. On this basis, I find that the search which the Police undertook at their premises was reasonable in the circumstances of this appeal.

I will next consider the rights of the appellant with respect to the records in the possession of Crime Stoppers, itself.

CUSTODY OR CONTROL

Is Crime Stoppers Part of The Police?

In their representations, both the Police and Crime Stoppers state that (1) Crime Stoppers is not part of the Police and (2) the records which are responsive to parts one and two of the request are not under the custody or control of the Police.

I will first consider whether Crime Stoppers is part of the Police, which is an institution under the Act, or a distinct organization.

In his submissions, the appellant points out that the Crime Stoppers office is located in the London Police headquarters and that it is staffed by a uniformed police officer and a civilian employee of the force.

Crime Stoppers states that it is a non-profit corporation registered as a charitable institution. It indicates that a civilian Board of Directors is responsible for overseeing the organization's work. This includes fund raising, promotional activities and the payment of rewards to individuals who provide tips to the program. Crime Stoppers further states that there are no public funds invested in the organization.

Crime Stoppers then indicates that, even though it maintains an office in the headquarters of the London Police, this facility is self-contained, fully secured and an autonomous unit. It points out that the only Police personnel who can access the premises are the Civilian Police Co-ordinator and the Police Administrator, both of whom have been seconded to Crime Stoppers from the Police.

For these reasons, Crime Stoppers takes the position that it is a separate entity which is entirely independent of the Police.

I have carefully reviewed the representations of the parties on this issue in conjunction with the circumstances of this case. In my view, the considerations which would support the view that Crime Stoppers is part of the Police are that the program is housed in the same building as the Police and that two seconded members of the force have access to this office.

On the other hand, the two organizations have distinct mandates, are involved in different activities and are accountable through different chains of command. In addition, there are no corporate, functional or statutory links between the two bodies. Finally, as noted previously, the Police are publicly funded, whereas Crime Stoppers relies on private donations.

Based on the evidence before me, I find that the two organizations are independent and distinct. It follows that Crime Stoppers is not part of the Police and, hence, not part of an institution for the purposes of the Act.

I also find that, although seconded Police personnel can access various Crime Stopper records, they are doing so as officers of this organization and not as employees of the Police.

Do the Police Have Custody or Control of the Records?

I must now determine whether the Police have custody or control of the records which are responsive to parts one and two of the request.

Section 4(1)(a) of the Act introduces the concepts of custody and control. This provision states that:

> 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 record or the part of the record falls within one of the exemptions under sections 6 to 15.

In Order 120, former Commissioner Sidney B. Linden stated that the concepts of custody and control should be given a broad and liberal interpretation in order to give effect to the purposes and principles of the Act. The Commissioner then proceeded to outline the following approach for determining whether specific records fell within the custody or control of an institution:

> In my view, it is not possible to establish a precise definition of the words "custody" or "control" as they are used in the Act, and then simply apply those definitions in each case. Rather, it is necessary to consider all aspects of the creation, maintenance and use of particular records, and to decide whether "custody" or "control" has been established in the circumstances of a particular fact situation.
>
> In doing so, I believe that consideration of the following factors will assist in determining whether an institution has "custody" and/or "control" of particular records:
>
> (1) Was the record created by an officer or employee of the institution?
>
> (2) What use did the creator intend to make of the record?
>
> (3) Does the institution have possession of the record, either because it has been voluntarily provided by the creator or pursuant to a mandatory statutory or employment requirement?

(4) If the institution does not have possession of the record, is it being held by an officer or employee of the institution for the purposes of his or her duties as an officer or employee?

(5) Does the institution have a right to possession of the record?

(6) Does the content of the record relate to the institution's mandate and functions?

(7) Does the institution have the authority to regulate the record's use?

(8) To what extent has the record been relied upon by the institution?

(9) How closely is the record integrated with other records held by the institution?

(10) Does the institution have the authority to dispose of the record?

These questions are by no means an exhaustive list of all factors which should be considered by an institution in determining whether a record is "in the custody or under the control of an institution". However, in my view, they reflect the kind of considerations which heads should apply in determining questions of custody or control in individual cases.

This approach has been followed in many subsequent orders. In each case, the issue of custody and/or control has been decided based on the particular facts of the case, the factors outlined in Order 120 and the related considerations which have been articulated in these orders. Similarly, this appeal must be decided on the basis of its particular facts.

Earlier in this order, I concluded that, on the date that the appellant filed his request, there were no telephone tapes, verbatim transcripts or Reports in the physical possession of the Police. On this basis, it follows that the Police did not have *custody* of these documents at the relevant point in time. I must now determine whether the Police exercise *control* over these records.

In his representations, the appellant argues that the Police must have a right of possession to the records. Otherwise, they could not have obtained them from Crime Stoppers in the first place.

Crime Stoppers points out, however, that its arrangement to share information with the Police is purely voluntary in nature. It further indicates that this protocol has been codified in an agreement entered into between the Police, the Ontario Provincial Police and itself, dated October 20, 1995. This agreement places specific restrictions on the manner in which the Police can use the information which Crime Stoppers provides to them.
Of particular interest is paragraph 7.1 of this agreement which states that:

> ... [A]ll property including office equipment, hard copy files, computers, data base, computer disks, and Crime Stoppers information packages disseminated for follow-up investigation remain the property of London Crime Stoppers Inc.

Paragraph 7.2 goes on to stipulate that:

> All Crime Stoppers information packages disseminated for an investigation shall not be copied or attached to police reports and shall be returned to London Crime Stoppers Inc. on demand.

Crime Stoppers also points out that it maintains a separate computer system from that of the Police and that its Board of Directors is responsible for determining the records retention schedule for its information holdings.

The Police confirm that they do not exercise control over the records maintained by Crime Stoppers. They assert that the records created by Crime Stoppers remain the property of this organization and are always returned to it. The Police also state that Crime Stoppers, rather than their organization, regulates the use of these records.

I have carefully considered the representations provided by the parties. In my view, the considerations which would support the view that the Police exercise control over the records are that (1) certain Police personnel have access to the Crime Stopper's premises, (2) the Crime Stopper records relate to the mandate and function of the Police (that is the apprehension of criminals) and (3) the Police have relied on these records as a basis for obtaining a search warrant and eventually laying criminal charges against several individuals.

There are, on the other hand, a number of important considerations outlined in Order 120 which support the conclusion that the Police do *not* exercise control over these records. The most important of these are that (1) the Police did not create these records, (2) Crime Stoppers provided the Reports to the Police on a voluntary basis, (3) it was not the intention of Crime Stoppers that the records would be permanently retained by the Police, (4) the Police do not have the authority to regulate the use of the records and (5) the Reports are not integrated with the other record holdings of the Police.

Following a careful weighing of the facts of this case and having regard to the considerations outlined in Order 120, I have reached the conclusion that the records in the possession of Crime Stoppers do not fall under the control of the Police for the purposes of the Act.

The result is that the appellant cannot access the records that are responsive to parts one and two of the request under the provisions of the Act.

INVASION OF PRIVACY

The Police claim that the records which relate to part three of the request are exempt from disclosure under section 14(1) of the Act because they contain the personal information of individuals other than the appellant. These records consist of an "Information to Obtain Search Warrant", a "Warrant to Search", a "Report to a Justice" form, the "Return Made to a Justice Under a Search Warrant" and a "Project Guardian Exhibit List".

Under section 2(1) of the Act, "personal information" is defined, in part, to mean recorded information about an identifiable individual, including 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.

As indicated previously, the appellant has stated that he is not seeking access to the names of any individuals who are mentioned in the records. On this basis, he argues that the remainder of the documents do not contain any personal information. I disagree.

Based on my review of these records, I find that even if these documents are disclosed with the names of the individuals deleted, there would still be a reasonable prospect that the individuals in question could be identified from the information that remains. For this reason, I find that the contents of these documents constitute personal information for the purposes of the Act. In addition, this information relates to individuals other than the appellant.

Section 14(1) of the Act prohibits an institution from disclosing personal information except in the circumstances listed in sections 14(1)(a) through (f). Of these provisions, only section 14(1)(f) could apply in this appeal. This provision permits disclosure if such action "does not constitute an unjustified invasion of personal privacy.

Disclosing the types of personal information listed in section 14(3) of the Act is presumed to be an unjustified invasion of personal privacy. If one of the presumptions applies, the Police can disclose the personal information only if it falls under section 14(4) of the Act (which has no bearing on the facts of this appeal) or if section 16 of the Act (the public interest override) applies.

If none of the presumptions found in section 14(3) apply, the Police must consider the factors listed in section 14(2), as well as all other relevant circumstances in the case.

In their representations, the Police submit that the presumption against disclosure contained in section 14(3)(b) of the Act (information compiled and identifiable as part of an investigation into a possible violation of law) applies to the contents of the records. They indicate that, as a result of their investigation, several individuals were charged under the provisions of the Criminal Code.

The appellant, for his part, states that the names of two individuals who were charged with these offences have already been disclosed to the media once the search warrant was executed. He has also drawn my attention to the Supreme Court of Canada decision of Nova Scotia (Attorney-General) v. MacIntyre (1982) 132 D.L.R. (3d) 385 to support his position that a member of the public is entitled to examine the contents of a search warrant.

In this court decision, Mr. MacIntyre, who was a television journalist, asked the Chief Clerk of a Nova Scotia court to obtain access to certain search warrants and supporting materials relating to a story that he was researching. The Clerk refused to disclose these documents on the ground that they were not available for inspection by the general public. The reporter then sought a declaration that these documents are a matter of public record and may be inspected in this fashion. This matter eventually reached the Supreme Court of Canada.

In his judgment, Dickson J., on behalf of the majority of the court, concluded that, after a search warrant has been executed, and the objects found as a result of the search are brought before a

Justice pursuant to section 446 [now section 490] of the Criminal Code, a member of the public is entitled to inspect the warrant and the information upon which the warrant has been issued pursuant to section 443 [now section 487] of the Criminal Code.

Dickson J. also indicated that there could be some exceptions to this general rule (for example, where the documents might be used for some improper purpose). He indicated, however, that the Courts could determine whether a particular warrant should be disclosed pursuant to their general supervisory powers over court records.

The appellant's position is that the general rule expounded in the MacIntyre case should conclusively govern whether the search warrant and related materials should be disclosed in the present appeal. In the alternative, he would argue that, based on the scheme of section 14 of the Act, the principle outlined in the MacIntyre case represents an unlisted factor favouring disclosure under section 14(2) of the Act.

In my view, the MacIntyre decision stands for the principle that, as a general rule, once a search warrant has been executed and the objects found as a result are brought before a Justice under section 490 of the Criminal Code, the *courts* should allow any member of the public to inspect the warrant and supporting materials. Such decisions would be made under the discretionary power of the courts to determine whether these court records should be disclosed in a particular case.

The principle outlined in MacIntyre resulted from the balancing of several broad policy considerations which a court must apply to the disclosure of court records issued by officials of the court who are involved in the administration of justice. The weight which the court accorded to the various access and privacy considerations was dependent on its unique role in the justice system and may not apply in other contexts.
For example, where a request for records of this nature is filed under the Act, in circumstances where these documents are in the custody of the Police, the request is governed by the provisions of the Act (Order P-994). As I have previously outlined, the Act creates a specific statutory scheme for processing access to information requests involving personal information. This scheme, which includes presumptions against the disclosure of personal information, seeks to balance access and privacy considerations consistent with the stated purposes of the Act.

Based on the specific context in which the Act operates, I find that the approach outlined in the MacIntyre decision is not applicable in the circumstances of this appeal.

I have carefully reviewed the records at issue. I find that the personal information contained in these documents was compiled and is identifiable as part of an investigation into a possible violation of law (i.e., the Criminal Code) for the purposes of the presumption against disclosure in section 14(3)(b)of the Act.

Based on the ruling of the Ontario Divisional Court in John Doe v. Ontario (Information and Privacy Commissioner) (1993) 13 O.R. 767, this means that the disclosure of the personal information in the records would *necessarily* constitute an unjustified invasion of personal privacy under section 14(3)(b) of the Act. Therefore, even if I agreed that the principle

articulated in the MacIntyre decision constituted a factor favouring disclosure under section 14(2) of the Act, I must find that the information is exempt under section 14(1)(f).

Although I have determined that the warrant and related materials are subject to the section 14(3) presumption against disclosure, I wish to reiterate that the appellant would still have the right to seek access to these documents as court records through the courts.

PUBLIC INTEREST IN DISCLOSURE

I have previously found that the disclosure of the personal information found in the search warrant and related documentation constitutes a presumed unjustified invasion of personal privacy under section 14(3)(b) of the Act.

The appellant contends, however, that there exists an overriding public interest in scrutinizing the manner in which the Police undertook its investigation of child pornography in the London area (an initiative known as Project Guardian). The appellant points out that this initiative constituted the most controversial and expensive activity which the London Police have undertaken in this decade. He also believes that the disclosure of information relating to the search warrant would help to shed light on the nature of the project.

Based on this argument, I must now consider whether the information contained in the warrant and related materials should be disclosed pursuant to the public interest override found in section 16 of the Act. This provision states that:

> An exemption from disclosure of a record under sections 7, 9, 10, 11, 13 and **14** does not apply if a compelling public interest in the disclosure of the record clearly outweighs the purpose of the exemption. [emphasis added]

In order for section 16 of the Act to apply, two requirements must be met. First, there must be a compelling public interest in the disclosure of the records. Second, this compelling interest must clearly outweigh the purpose of the exemption. Based on the facts of this appeal, I must, therefore, determine whether there is a compelling public interest in the disclosure of the personal information in the documents which clearly outweighs the purpose of the section 14 exemption.

In undertaking this analysis, I am mindful of the fact that section 14 is a mandatory exemption whose fundamental purpose is to ensure that the personal privacy of individuals is maintained except where infringements on this interest are justified.

I have carefully considered the positions of the parties along with the records at issue. Based on my review of the search warrant and related documents, these records do not shed any meaningful light on how the Police approached Project Guardian as a whole. Taking this factor into account, I am not persuaded that there exists a compelling public interest in the disclosure of these documents that clearly outweighs the purpose of the invasion of privacy exemption.

Accordingly, I find that section 16 of the Act does not apply in the circumstances of this appeal. The result is that the records that are responsive to part three of the request are properly exempt from disclosure under section 14(1) of the Act.

Finally, because of the manner in which I have dealt with this issue, it is not necessary for me to consider the various law enforcement exemptions which the Police have claimed.

ORDER:

I uphold the decision of the Police.

Original signed by: December 16, 1996
Irwin Glasberg
Assistant Commissioner