

Information and Privacy Commissioner,  
Ontario, Canada



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

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## ORDER MO-3130

Appeal MA11-301

St. Thomas Police Services Board

November 27, 2014

**Summary:** The police received a request for the “current and two previous contracts” of the Police Administration (including the Chief, Deputy Chief, Inspectors, and Civilian Administrator). The police denied access to the responsive records on the basis of the exemptions in sections 6(1)(b) (closed meetings) and 14(1) (personal privacy). This order determines that the employment contracts do not qualify for exemption under section 6(1)(b) of the *Act* as disclosure of them does not reveal the substance of the deliberations of closed meetings. This order also determines that the records do not qualify for exemption under section 14(1) and orders that they be disclosed.

**Statutes Considered:** *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, sections 2(1) (definition of personal information), 6(1)(b), 14(1), 14(4)(a).

**Orders and Investigation Reports Considered:** M-23, PO-1715, PO-1885, MO-1676, MO-2470, MO-2499-I, MO-2536-I and MO-2964-I.

### OVERVIEW:

[1] The St. Thomas Police Services Board (the police) received a request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for access to the following information:

Current and two previous contracts of St. Thomas Police Administration (including Chief, Deputy Chief, Inspectors, and Civilian Administrator) including benefits.

[2] The police located four responsive records and denied access to them on the basis of the exemptions in sections 6(1)(b) (closed meetings) and 14(1) (personal privacy) of the *Act*.

[3] 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*. A Notice of Inquiry, identifying the facts and issues in this appeal, was sent to the police, initially, and the police provided representations in response. The Notice of Inquiry, as well as a complete copy of the representations of the police, was then sent to the appellant, who also provided representations in response.

[4] During the processing of this file, another appeal file (MA11-73) involving access to employment contracts was also being processed by this office. That appeal resulted in the issuance of Interim Order MO-2964-I, which determined that final, executed employment contracts do not qualify for exemption under section 6(1)(b). It also discussed the treatment of certain aspects of employment agreements under the section 14(1) exemption (personal privacy).

[5] Because Interim Order MO-2964-I addressed similar issues to those raised in this appeal, a Supplementary Notice of Inquiry referring to that interim order and inviting representations on the issues was sent to the police as well as to five parties whose interests may be affected by disclosure of the records (the affected parties). Only the police provided representations in response.

[6] This file was then transferred to me to complete the adjudication process.

[7] In this order, I find that that the records do not qualify for exemption under section 6(1)(b) of the *Act* as their disclosure does not reveal the substance of the deliberations of the closed meetings. This order also determines that the records do not qualify for exemption under section 14(1) and orders that they be disclosed.

## **RECORDS:**

[8] There are four records at issue in this appeal. Each of these records is in the form of a By-law. Two By-laws are responsive to the portion of the request which refers to current contracts of employment (one By-law is the contract for the Police Chief, and one By-law is the contract for the other three positions – the Deputy Chief, Inspectors and Administrator). The other two By-laws are responsive to the portion of the request seeking access to the previous contracts, and each of these By-laws applies to the four requested positions. I refer to these records interchangeably as the

"employment agreements" or the "by-laws" in the appeal.

## **ISSUES:**

- A: Do the records qualify for exemption under section 6(1)(b) of the *Act*?
- B. Do the withheld portions of the records contain "personal information" as defined in section 2(1)?
- C. Would disclosure of the personal information constitute an unjustified invasion of personal privacy under the mandatory exemption under section 14(1)?

## **DISCUSSION:**

### **Issue A: Do the records qualify for exemption under section 6(1)(b) of the *Act*?**

[9] The police take the position that the records are exempt under section 6(1)(b). That section states:

A head may refuse to disclose a record,

that reveals the substance of deliberations of a meeting of a council, board, commission or other body or a committee of one of them if a statute authorizes holding that meeting in the absence of the public.

[10] For this exemption to apply, the institution must establish that

1. a council, board, commission or other body, or a committee of one of them, held a meeting
2. a statute authorizes the holding of the meeting in the absence of the public, and
3. disclosure of the record would reveal the actual substance of the deliberations of the meeting<sup>1</sup>.

[11] All three parts of the three-part test set out above must be established in order for the records to qualify for exemption under section 6(1)(b).

[12] The police provided detailed representations on all three parts of the test.

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<sup>1</sup> Orders M-64, M-102 and MO-1248.

***Part 1 - a council, board, commission or other body, or a committee of one of them, held a meeting***

[13] In support of its position that this part of the test is met, the police state:

With respect to each record, an in-camera meeting was held in which the proposed employment contract was reviewed and deliberated upon by the members of the Board to discuss the appropriateness of entering into the contract.

These in-camera meetings were held ... on [three identified dates].

[14] The police provide an affidavit sworn by the Chair of the Police Services Board (the board) in support of its position that these meetings were held in-camera. The affidavit also confirms that the two current contracts were addressed at the board's most recent meeting, and the two earlier contracts were the subject matter of the two earlier meetings.

[15] Based on the representations of the police, I find that the board held a meeting, and that Part 1 of the three-part test under section 6(1)(b) has been met.

***Part 2 - a statute authorizes the holding of the meeting in the absence of the public***

[16] In support of its position that this part of the three-part test is established, the police refer to section 35(4)(b) of the *Police Services Act*, which states:

The board may exclude the public from all or part of a meeting or hearing if it is of the opinion that,

- (b) intimate financial or personal matters or other matters may be disclosed of such a nature, having regard to the circumstances, that the desirability of avoiding their disclosure in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that proceedings be open to the public.

[17] The police then state that they exercised their discretion under section 35(4) to hold the referenced meetings in-camera on the basis of subsection (b).

[18] In the circumstances, I am satisfied that section 35(4)(b) of the *Police Services Act* authorized the holding of the meetings at issue in the absence of the public, because the subject matter of the meetings pertain to personal matters involving

employees of the police. Accordingly, I find that Part 2 of the test under section 6(1)(b) of the *Act* has been established.

***Part 3 - disclosure of the record would reveal the actual substance of the deliberations of the meeting***

[19] Under Part 3 of the test set out above, previous orders have found that:

- “deliberations” refer to discussions conducted with a view towards making a decision<sup>2</sup>
- “substance” generally means more than just the subject of the meeting<sup>3</sup>.

[20] The police’s initial representations on this part of the test state that the records at issue “formed the subject matter of the considerations and deliberations of the Board.” It states that, for each record, “an in-camera meeting was held in which the proposed employment contract was reviewed and deliberated upon by the members of the Board to discuss the appropriateness of entering into the contract.” The police also refer to the affidavit of the Chair of the board which confirms that the board “considered and deliberated on” the contents of each of the records at the respective meetings in which each of these records were discussed.

[21] In support of its position that the third part of the three-part test has been met, the police also refer to Order MO-1248, as an example of a previous decision which found that the “deliberations of the content of employment agreements triggers the application of s.6(1)(b).”<sup>4</sup> The police then submit there is no relevant distinction between the decision in that case, and the circumstances of this appeal.

[22] In his representations, the appellant states that he disagrees with the police interpretation of this part of the test. He states:

... It would seem to me that this section deals with the process and arguments/proposals made by each side (in this case, the employer and the employee) during negotiations of the contracts. The final resulting contracts do not fall under the “deliberations” that took place during these meetings. The final contracts are a matter of public information as they are the contracts of public officials. I am not seeking the minutes of those

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<sup>2</sup> Order M-184.

<sup>3</sup> Orders M-703 and MO-1344.

<sup>4</sup> I note that Order MO-1248 addressed a number of records, most of which related to the termination of an employee. In that order, the institution also stated that “in deliberating on this matter the records at issue were considered and discussed with a view towards making a decision with respect to the employee’s *termination*.” [emphasis added]

meetings which would reveal the deliberations, I am only seeking the final documents that resulted, and therefore, the [police] should not be able to rely on [section 6(1)(b)].

[23] As noted above, during the processing of this appeal (and after representations were received from the police and the appellant), another appeal file (MA11-73) involving access to employment contracts was also being decided by this office. That appeal resulting in the issuance of Interim Order MO-2964-I, which determined that final, executed employment contracts do not qualify for exemption under section 6(1)(b). Because that Interim Order addressed similar issues to those raised in this appeal, a Supplementary Notice of Inquiry referring to that interim order and inviting representations on the issues was sent to the police as well as to five affected parties. At that time, the appellant's representations were also shared with the other parties. Only the police provided representations in response. In their representations, the police take the position that Order MO-2964-I was wrongly decided and should not be followed in this appeal. Their arguments are set out below.

#### *Analysis and findings*

[24] As noted, part three of the test requires that the disclosure of the record would reveal the actual substance of the deliberations of the closed meeting.

[25] In Interim Order MO-2964-I, I reviewed in some detail the application of this part of the test in circumstances where the section 6(1)(b) claim was being made for employment contracts which were deliberated upon in a closed meeting, but which were then executed by the parties (the City of Greater Sudbury and certain employees).

[26] In that interim order I reviewed in some detail Order MO-2499-I, an order of former Senior Adjudicator John Higgins in which he discussed the meaning of the phrase "substance of the deliberations." In Order MO-2499-I, the former Senior Adjudicator referred to other decisions which reviewed that phrase. He referred to Order MO-1344, a decision of former Assistant Commissioner Tom Mitchinson, which stated:

To satisfy the third requirement of the test, the Board must establish that disclosure of the record would reveal the actual substance of the deliberations of this *in camera* meeting. As I found in Order M-98, the third requirement would not be satisfied if the disclosure would merely reveal the subject of the deliberations and not their **substance** (see also Order M-703). "[D]eliberations" in the context of section 6(1)(b) means discussions which have been conducted with a view to making a decision (Orders M-184, M-196 and M-385).

[27] He also referred to a decision of the British Columbia Information and Privacy Commissioner, which addressed a section similar to section 6(1)(b)<sup>5</sup> at issue in this appeal as follows:

Section 12(3)(b) does not necessarily allow the Board to refuse to disclose records because they “refer to matters discussed” in camera. Nor does section 12(3)(b) allow a local public body to “withhold in camera records”, whatever they may be. The section does not create a class-based exception that excludes records of, or related to, in camera meetings. ...

Nor would disclosure of the subjects dealt with at the Board meetings here in question - regardless of whether a matter was presented to the Board for information or for discussion and action - reveal the substance of the Board’s deliberations on those subjects. There may be cases where disclosure of a subject of an in camera meeting would, of itself, reveal the substance of the deliberations of the governing body. It may be possible, for example, to combine knowledge of the subject matter with other, publically available, information, such that disclosure of the subject matter itself amounts to disclosure of the “substance of deliberations”. The Board has not supplied any evidence or argument that would permit me to decide that this is the case here. ...

[28] Following these decisions, in Interim Order MO-2964-I, I reviewed the evidence provided by the institution in support of its section 6(1)(b) claim. That evidence included staff reports and background documents regarding the staffing decisions, specific evidence of what was discussed in-camera, and the minutes of the relevant meetings, which identified which clauses of the contracts were discussed and the positions taken by the various council members regarding their views of some of the terms. I then stated:

... these background documents or the minutes of the in-camera meetings would, in my view, be precisely the kind of records which would reveal the “substance of the deliberations” of the in-camera meetings. However, these minutes and documents are not the records at issue in this appeal. The records at issue are the six executed agreements entered into between the city and the six individuals. In my view, disclosure of these records would not reveal the substance of the deliberations. Rather, disclosure of the final executed contracts would reveal the *subject* or the “product” of the deliberations.

[29] I then reviewed in detail two significant arguments made by the institution in that appeal in support of its view that disclosure of the records would reveal the

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<sup>5</sup> Being section 12(3)(b) of the *Freedom of Information and Protection of Privacy Act* of British Columbia.

substance of the deliberations. These two arguments were 1) that previous decisions of this office have found that disclosure of final agreements, discussed or approved at in-camera meetings, would reveal the substance of the deliberations of those meetings; and 2) that proper statutory interpretation supports a finding that section 6(1)(b) applies to final, executed employment agreements.<sup>6</sup> I rejected both of those arguments, and found in Interim Order MO-2964-I that section 6(1)(b) did not apply to the final executed employment contracts at issue in that appeal.

[30] With respect to the arguments that previous decisions of this office have found that disclosure of final agreements, discussed or approved at in-camera meetings, would reveal the substance of the deliberations of those meetings, I reviewed Order MO-1676 (the previous order cited by the institution in that appeal), as well as other orders which made similar findings. I noted that these orders all involved in-camera discussions about the minutes of settlement or terms of termination agreements negotiated or entered between municipal bodies and former employees, and that none of them addressed employment agreements entered into with individuals who then commence or continue employment with the municipal body in accordance with those employment agreements. I then stated:

I acknowledge that the orders referred to by the city found that the negotiated agreements at issue would reveal the substance of the deliberations of the in-camera meetings. However, I find that additional factors may be in play when municipalities enter termination agreements or minutes of settlement to settle litigation. There may be instances where simply disclosing the fact that a settlement agreement was entered into may reveal solicitor-client privileged information or other confidential information. These same concerns are not raised with respect to employment agreements ultimately executed by parties, which then result in the employment of the individuals.

On this basis, I find that these previous orders are distinguishable on their facts, analysis and conclusions.

Accordingly, to the extent that previous orders of this office have determined that disclosure of a final agreement would reveal the "substance of the deliberations" of an in-camera meeting for the purpose of the third part of the test in section 6(1)(b), I decline to follow those orders in the current circumstances, where the final agreement is an employment agreement entered between the municipality and an

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<sup>6</sup> The city in that appeal relied specifically on three grounds, which I reviewed in some detail. These grounds included: 1) The object of the *Act*, 2) the Legislative Intent and the Williams Local Government Report and 3) the statutory context of section 6(1)(b).



employee. Although disclosure may reveal the result of the in-camera deliberations, it would not reveal the substance of those deliberations for the purpose of section 6(1)(b).

[31] As noted above, in this appeal the police take the position that my decision in Interim Order MO-2964-I is in error and is in direct conflict with this office's "long standing jurisprudence in this area" and ought not to be followed. The police also argue that the reasoning set out in the paragraphs cited above is "fundamentally flawed" and that there is no material difference between the circumstances resulting in Order MO-1676 and those in Interim Order MO-2964-I. The police state:

In order MO-2964-I the IPC addresses Order MO-1676 [which determined] that disclosure of a Minutes of Settlement document ... would reveal the substance of deliberations between the parties.

As noted in the excerpt of MO-1676 cited at page 14 of Order MO-2694-I, the record in question was placed before the Police Services Board at an in camera meeting for the purposes of determining on whether to adopt its terms. It is clear from the excerpt that the Police Services Board was deliberating over the terms of the [proposed] settlement.

[In Order MO-2964-I], the IPC does not reject its prior decisions, including Order MO-1676 but attempts to distinguish them from the case before it. It indicates that in-camera discussion with respect to adopting minutes of settlement or the terms of an employment separation agreement is distinct from deliberations involving the adoption of an employment agreement.

[32] The police then identify what they consider to be the errors in the rationale for distinguishing Order MO-1676 from the circumstances in Interim Order MO-2964-I as follows:

- The IPC acknowledges that its "finding" with respect to the distinction between employment contracts and termination agreements/minutes of settlement is solely based on unfounded speculation by the adjudicator. This is borne out by the language of the paragraph which claims other factors "may be in play" or that "There may be instances where disclosure ...". The IPC makes no finding that these distinguishing factors actually existed in the prior cases. [The police submit] that the IPC cannot assume factual distinctions which are not borne out by the facts as articulated in the decision.
- Moreover, the facts identified in Order MO-1676 actually support an opposite conclusion to the one drawn in Order MO-2496-I. In Order MO-

2496-I, the IPC speculates that "there may be instances where simply disclosing the fact [that] a settlement agreement was entered into may reveal solicitor-client privileged information." This hypothetical ignores the fact that the existence of the minutes of settlement are expressly acknowledged in Order MO-1676 and that no claim identifying privilege over the mere existence of the minutes is identified.

- More fundamentally, [the police submit] that the existence (or non-existence) of a legal privilege associated with the record is not a relevant factor under the in-camera exemption which focuses solely on whether disclosure would reveal the substance of in-camera deliberations. A breach of legal privilege would be independently addressed by section 12 of [the *Act*].
- The IPC also speculates that the disclosure of a termination agreement or minutes of settlement may also disclose "other confidential information." The IPC does not identify what this information might possibly be nor does it point to anything in Order MO-1676 which supports the conclusion that this was a consideration. Again, [the police note] that this is an example of the decision basing a claim of distinction on speculation without any support from the prior decisions themselves.
- In the absence of any concrete examples of the factors claimed in paragraph 48, the IPC has no basis for distinguishing between deliberations over minutes of settlement, severance agreements and employment agreements.
- [The police submit] that the decision is in error and is in direct conflict with the IPC's long standing jurisprudence in this area and ought not to be followed.

[33] I have considered the position taken by the police set out above, and am not persuaded that the decision in Interim Order MO-2964-I was in error. In this appeal, I will follow my decision and reasoning in Interim Order MO-2964-I and apply it to the circumstances of this appeal, for the following reasons.

[34] To begin, I accept the police's position that Order MO-1676 itself dealt with a situation where the existence of the minutes of settlement was expressly acknowledged. In Interim Order MO-2964-I I did not find that MO-1676 involved a situation where the existence of a settlement was unknown, rather, I referred generally to the possibility that some appeals involving settlement agreements may involve other factors when I stated "There may be instances where simply disclosing the fact that a settlement agreement was entered into may reveal solicitor-client privileged information or other confidential information." I then stated that these concerns were not raised

with respect to employment agreements ultimately executed by parties, which then result in the employment of the individuals.

[35] It is a well-recognized principle of law that administrative tribunals are not bound by their own previous decisions.<sup>7</sup> Absent unique circumstances, to the extent that Order MO-1676 and other orders of this office have found that final executed agreements qualify for exemption under section 6(1)(b) simply because they result from an in-camera meeting, I decline to follow them. I instead follow my finding in Interim Order MO-2964-I.

[36] I also adopt the reasoning in Interim Order MO-2964-I where I find that a proper statutory interpretation supports a finding that section 6(1)(b) does not apply to final, executed employment agreements.

[37] As a result, I find that disclosure of the final adopted employment agreements at issue would not reveal the actual substance of the deliberations of the in-camera meetings at which these agreements were discussed. Accordingly, the records do not meet the third part of the test for section 6(1)(b), and do not qualify for exemption under that section.

[38] Having found that the records do not qualify for exemption under section 6(1)(b), it is not necessary for me to review whether the exception in section 6(2)(b) applies. It is also not necessary for me to review the police's exercise of discretion.

**Issue B. Do the withheld portions of the records contain "personal information" as defined in section 2(1)?**

[39] The police have also claimed that the mandatory personal privacy exemption in section 14(1) applies to the records. This exemption only applies if the information at issue constitutes the "personal information" of an identifiable individual.

[40] In order to determine which sections of the *Act* may apply, it is necessary to decide whether the record contains "personal information" and, if so, to whom it relates. 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,

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<sup>7</sup> See Order PO-1715.

- (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 if 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;

[41] 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.<sup>8</sup>

[42] To qualify as personal information, it must be reasonable to expect that an individual may be identified if the information is disclosed.<sup>9</sup>

[43] The police state that each of the responsive records contains the personal information of the affected individuals who are the parties to the employment agreements.

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<sup>8</sup> Order 11.

<sup>9</sup> Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.).

[44] Previous orders of this office have found that information about individuals in employment contracts or severance agreements generally constitutes their "personal information" as that term is defined in section 2(1) of the *Act*.<sup>10</sup> However, previous orders have also determined that certain information in employment contracts does not constitute an individual's "personal information" because it either relates to management rights (i.e., the rights of the police), or are generic clauses about a non-personal matter, such as the laws that govern the interpretation of the contract.<sup>11</sup>

[45] Based on my review of the records at issue in this appeal, I find that most of the information in these agreements constitutes the personal information of the individuals covered by the agreements, as they contain information that relates to the specific benefits and salary information of these individuals. However, I find that some information in these records does not qualify as the personal information of these individuals for the purpose of section 2(1) of the definition. Specifically, I find that the introductory wording of the By-laws, the dates they were read and passed, the signature of the Board official who signed the By-laws on behalf of the police, and Articles I (Employees covered), XV (Repeal) and XVI (Effective date) do not qualify as "personal information" and cannot be exempt from disclosure under the personal privacy exemption in section 14(1) of the *Act*.

[46] I will now consider whether the remaining portions of the records, which consists of the "personal information" of the individuals, qualifies for exemption under the personal privacy exemption in section 14(1) of the *Act*.

**Issue C. Would disclosure of the personal information constitute an unjustified invasion of personal privacy under the mandatory exemption under section 14(1)?**

[47] Where a record contains only the personal information of identifiable individuals, section 14(1) prohibits the disclosure of this information unless one of the exceptions listed in paragraphs (a) to (f) of section 14(1) applies. If the information fits within any of those paragraphs, it is not exempt from disclosure under section 14(1).

[48] The exception which might apply in the circumstances of this appeal is section 14(1)(f), which permits disclosure if it "... does not constitute an unjustified invasion of personal privacy."

[49] The factors and presumptions in sections 14(2), (3) and (4) help in determining whether disclosure would or would not be an unjustified invasion of personal privacy under section 14(1)(f). If any of paragraphs (a) to (h) of section 14(3) apply, disclosure of the information is presumed to be an unjustified invasion of personal

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<sup>10</sup> See, for example, Orders M-173, P-1348, MO-1184, MO-1332, MO-1405, MO-1622, MO-1749, MO-1970, MO-2318, PO-2519 and PO-2641.

<sup>11</sup> See, for example, Orders PO-1885, MO-2470 and MO-3044.

privacy under section 14. Once established, a presumed unjustified invasion of personal privacy under section 14(3) can only be overcome if section 14(4) or the "public interest override" at section 16 applies.<sup>12</sup>

[50] Section 14(4) refers to certain types of information whose disclosure does not constitute an unjustified invasion of personal privacy. Section 14(4)(a) reads:

(4) Despite subsection (3), a disclosure does not constitute an unjustified invasion of personal privacy if it,

(a) discloses the classification, salary range and benefits, or employment responsibilities of an individual who is or was an officer or employee of an institution;

[51] I will review the portions of the records at issue which contain this type of information.

### *Benefits*

[52] This office has interpreted "benefits" to include entitlements, in addition to base salary, that an employee receives as a result of being employed by the institution. The following have been found to qualify as "benefits":

- insurance-related benefits,
- sick leave, vacation,
- leaves of absence,
- termination allowance,
- death and pension benefits,
- right to reimbursement for moving expenses, and
- incentives and assistance given as inducements to enter into a contract of employment.<sup>13</sup>

[53] Furthermore, in Order MO-2470, adjudicator Colin Bhattacharjee reviewed the terms of two employment agreements between the Essex Police Services Board and their Chief and deputy Chief. He found that the following terms constituted "benefits" for the purpose of section 14(4)(a):

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

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<sup>12</sup> *John Doe v. Ontario (Information and Privacy Commissioner)* (1993), 13 O.R. (3d) 767.

<sup>13</sup> Orders M-23 and PO-1885.

bereavement leave, survivor's pension, separation, incidental expense allowance, membership and participation in professional associations.

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

[54] Although the appellant refers to Order MO-2760, none of the parties provide specific representations on whether some portions of the employment contracts at issue constitute "benefits" for the purpose of section 14(4)(a).

[55] Applying the approach taken to the term "benefits" as set out in the previous orders, I find that the following clauses of the four by-laws clearly constitute "benefits" for the purpose of section 14(4)(a): Articles III, IV, V, VI, VII, VIII, IX, X, XII, XIII and XIV.

[56] I also find that the disclosure of the "benefits" in each of these Articles of the by-laws at issue would not reveal other personal information about the identifiable individuals.

[57] Having found that these identified Articles of the by-laws constitute "benefits" for the purpose of section 14(4)(a), I find that their disclosure would not constitute an unjustified invasion of privacy, and that they do not qualify for exemption under section 14(1).

#### *Classification and salary range*

[58] The only information remaining at issue is the information contained in Article II entitled "Classification and Salary Schedule," Schedules A and B to the by-laws, and the signatures of the affected parties covered by the contracts reflected in these bylaws.

[59] I find that the classifications set out in the Schedules to the by-laws (referenced in Article II) and the classifications relating to each individual as identified on the signature page of the by-laws, contain information about the classification of the an individual who is or was an employee of an institution for the purpose of section 14(4)(a).

[60] The remaining portions of Article II and the two Schedules to the by-laws collectively identify the salaries for the positions reflected in each of the by-laws. I note that although Schedule A to the by-laws refers to a specific salary for each position, it also references a range of possible increases. Schedule B (which is only attached to the three more recent records) identifies various possible salary increases for those positions up to and including a ceiling salary. Article II and the two schedules to the by-laws also identify specific additional increases, as well as additional possible increases that may result due to other factors. In my view, Article II and Schedules A and B collectively constitute a "Salary Range" for the positions covered by the by-laws, as they provide a base and ceiling salary possibility for each of the identified positions. In these circumstances, I find that the salary information in Article II and the schedules to the by-laws contain the salary range of an individual who is or was an employee of an institution for the purpose of section 14(4)(a).

[61] In summary, I find that all of the portions of the by-laws which contain the personal information of any individual who is or was an employee of the institution fits within the exception in section 14(4)(a) of the *Act*, and that disclosure of this information does not constitute an unjustified invasion of privacy. These portions of the records are, therefore, not exempt under section 14(1) of the *Act*.

[62] As a result, I will order that the records, in full, be disclosed to the appellant.

**ORDER:**

I find that the four records at issue do not qualify for exemption under section 6(1)(b) or 14(1) of the of the *Act*, and I order the police to disclose these records to the appellant by **January 5, 2015** but not before **December 31, 2014**.

Original Signed By:  
Frank DeVries  
Adjudicator

\_\_\_\_\_  
November 27, 2014