

Information and Privacy Commissioner,  
Ontario, Canada



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

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## INTERIM ORDER MO-4591-I

Appeal MA21-00092

Toronto Police Services Board

November 6, 2024

**Summary:** This second interim order follows Interim Order MO-4488-I, in which the IPC ordered the respondent board to issue a new access decision in response to a request for a line-by-line breakdown of the 2020 Toronto Police Service budget for six specified police units and services, organized by individual program area, function, and service delivered. In the first interim order, the adjudicator found that the board's disclosures to that point did not fully respond to the appellant's request for a detailed budget breakdown, including specified components. She also found that the board had failed to clearly articulate or substantiate a claim that responsive budget information does not exist, or otherwise cannot be produced for the purposes of access under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*).

In this second interim order, the adjudicator considers the board's evidence in support of its revised decision that responsive budget information "never existed and it is not possible to produce this information." She finds that the board has again failed to substantiate a claim that responsive budget information either does not exist, or exists but cannot be produced for the purposes of the *Act*. She orders the board to conduct another search for responsive information in its custody or control. If, following this search, the board concludes that responsive information does not exist anywhere in its record holdings, or cannot be produced in the form of a "record" for the purposes of the *Act*, the board must provide a detailed explanation of how it reached this conclusion. The adjudicator remains seized of the appeal to address issues arising from this second interim order.

**Statutes Considered:** *Municipal Freedom of Information and Protection of Privacy Act*, RSO 1990, c M.56, section 17.

**Orders and Investigation Reports Considered:** Order MO-4488-I.

## OVERVIEW:

[1] This is a second interim order arising from the appellant's November 7, 2020 request to the Toronto Police Services Board (the board) under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for detailed information about the 2020 budget of Toronto Police Services (the police). Following the first interim order, only Part A of the appellant's request remains at issue. Part A reads as follows (emphases in original):

A "*line-by-line breakdown of the 2020 [police] budget*" (as set out in August 18, 2020 [board] Minutes, at Item #P129, in Appendix A of the report dated August 10, 2020 from [the board chair] entitled "Police Reform in Toronto: Systemic Racism, Alternative Community Safety and Crisis Response Models and Building New Confidence in Public Safety," at recommendation No. 15) – but **to the extent** that the "*line-by-line breakdowns*" (as set out in August 18, 2020 [board] Minutes, at Item #P129, in Appendix A of the [board chair's report], at recommendation No. 18) have since August 18, 2020 been organized "*by individual program area, function and service delivered*" and are so organized on the date of the processing of this request, such more particularized "*line-by-line breakdowns*" - for the following six (6) units and services identified in the organizational chart provided by the [police] on or about August 18, 2020 (a copy of which is appended to this request as "Schedule B") within the "Specialized Operations Command," under "Detective Operations":

1. "Intelligence Services," as a unit,
2. "Organized Crime Enforcement" as a unit, **and** broken down into the following four additional units and/or services, as identified in the organizational chart (see "Schedule B"):
  - a) "Integrated Gun & Gang Task Force"
  - b) "Drug Squad"
  - c) "Financial Crimes"
  - d) "Prov. ROPE, Bail & Parole, Fugitive Squad."

[2] The above request refers to and quotes from an August 10, 2020 report of the board chair that was tabled at an August 18, 2020 public meeting of the board. The chair's report contained a number of recommendations for improving the transparency of police budgets. Following the report and recommendations, the appellant made the request giving rise to this appeal, including the portion reproduced above for a detailed breakdown of the 2020 police budget for the six named police units and services, "organized by individual program area, function, and service delivered."

[3] After the board denied the appellant's access request on various grounds, the appellant appealed the denial to the Office of the Information and Privacy Commissioner of Ontario (IPC). I partially upheld the appeal in Interim Order MO-4488-I. With respect to the above-noted portion of the request, I made the following findings:

- The access request clearly identifies that the information sought is a line-by-line breakdown of the 2020 police budget for the six specified police units and services (i.e., Intelligence Services; Organized Crime Enforcement as a unit; and, within Organized Crime Enforcement, the following four additional units: Integrated Gun & Gang Task Force; Drug Squad; Financial Crimes; and Prov. ROPE, Bail & Parole Fugitive Squad), organized by "*individual program area, function and service delivered*" (emphasis appellant's).
- The publicly available budget data to which the board initially directed the appellant (which the board described as a "line-by-line breakdown of all the units requested by the appellant as an aggregate") is not responsive to the request because it does not contain a breakdown by the police units and services specified by the appellant (paragraphs 45-47 of the interim order).
- A further disclosure made by the board during the inquiry process is not responsive to the request. While the further disclosure set out expenditures for each of the specified police units and services, it did not break down the expenditures to the requested level of detail (i.e., by "individual program area, function and service delivered") (paragraphs 51-63), and the board did not provide an adequate explanation for its failure to do so. For example, while the board proposed that certain program budgets were outside the scope of the request, it did not provide a sufficient explanation for this claim (paragraphs 64-68).
- By the end of the inquiry leading to the interim order, the board had not clearly articulated or substantiated a claim that responsive budget information does not exist in its custody or control, or is exempt, or is otherwise inaccessible under the *Act* (paragraphs 75-79).

[4] I thus ordered the board to identify and locate the detailed budget information responsive to the appellant's request, and to issue a decision on access to it in accordance with the requirements of the *Act*. Among other things, this meant the board had to specify particular ground(s) in the *Act* for any decision to withhold responsive information in full or in part. In addition, given circumstances that I described in the interim order (at paragraphs 80-86), I did not permit the board to claim any extensions of time to issue the new access decision.

[5] In compliance with the interim order, the board issued its new access decision on March 4, 2024.

## **The board's new access decision, and the appellant's further appeal**

[6] In its March 4, 2024 access decision, the board denies access to the requested budget information on the basis this information "never existed and it is not possible to produce this information, for the reasons cited below."

[7] The board's reasons are as follows:

In 2021, a multi-year Service-Based Budgeting Initiative (the Initiative) was commenced by the Service [the police] to align with the City's plan to modernize its budget process and move toward a budget based on the services provided to the community. In doing so, the Service at that time began taking steps to categorize key areas of service from the perspective of citizens receiving these services. This will allow for the delineation of the allotted resources for these services; and ties outcomes and key metrics for a better understanding of how well the Service is meeting the needs of the communities we serve.

At this time, however, depending on the involved category, the breakdown of information tends to be Service-wide and not by specific Unit. Nevertheless, as we work through this Initiative, the goal is to provide more transparency in our yearly budget publications to enhance and bolster public trust.

Lastly, this institution asserts that a reasonable search for responsive records has been conducted, as required by section 17 of the *[Act]*.<sup>1</sup>

[8] After the appellant confirmed his intention to appeal the board's new access decision, I wrote to the board to seek clarification of the basis for its revised position.

[9] I said that I understood the board to be asserting that the requested budget information "never existed and it is not possible to produce this information" because, since 2021, budget information has not been "categorized" and/or "broken down" in this way.

[10] I told the board that these terms suggest to me a particular manner of organizing or presenting existing budget information after 2021. However, the board's explanation, without more, did not assist in clarifying whether the board's position is that the requested information about the 2020 police budget exists but cannot be organized in the requested

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<sup>1</sup> In the revised decision, the board also referred again to a January 6, 2021 "Recommendation Completion Report" prepared by the police in response to a board motion arising from the "August 18, 2020 Toronto Police Services Board Minute Item #P 129." The board had referred to this report in its representations during the inquiry that led to the first interim order. I addressed these submissions in paragraphs 55-57 and 70 of the interim order. As I stated there, the adequacy of the police's disclosure of 2020 budget information through a separate process is not an issue before me in this appeal, which concerns the board's compliance with its obligations under the *Act* in response to an access request made under the *Act*.

manner, or it is that the requested budget information does not exist at all—and, in either case, why not. Specifically, the board’s statements left open the question of whether the board (and/or the police that are part of the board)<sup>2</sup> ever collected, compiled, or otherwise tracked information about the 2020 police budget allocated to the particular line items at issue (such as spending on particular programs)—and, if not, why not.

[11] Given this, I asked the board to clearly articulate and to explain the basis for its revised position. I also asked the board to explain how it had fulfilled its obligations under the *Act* to conduct a reasonable search for responsive records in its custody or control.

[12] The board provided additional representations, which I shared with the appellant for response. After considering all the evidence before me, I shared with the parties my preliminary view that the board had failed to establish that the detailed budget information at issue in this appeal does not exist, or should not reasonably be expected to exist, in its custody or control. I also noted that I do not understand the board to be claiming that responsive information exists but cannot be produced in the form of a “record” accessible under the *Act*.<sup>3</sup> I asked the board to confirm that my understanding was accurate and, if not, to clearly explain the basis for the board’s position on this issue.

[13] I thus gave the board another opportunity to clarify its position and reasons, in view of my specific questions arising from the evidence submitted to that point. In response, the board provided representations in the form of affidavits from additional board and police staff. I gave the appellant an opportunity to comment on these representations, which he did. Throughout the inquiry, I shared the parties’ representations with one another in accordance with the IPC’s *Code of Procedure* and *Practice Direction #7*.

[14] In the discussion that follows, I explain why I am not persuaded of a reasonable basis for the board’s assertion that responsive information does not exist. I am therefore issuing this second interim order requiring the board to search for and to issue an access decision on responsive information in its custody or control. If, following this search, the board concludes that responsive information does not exist in its custody or control, or cannot be produced for other reasons, the board must provide a detailed explanation for its conclusion.

[15] In addition, for reasons set out below, I do not permit the board to seek an

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<sup>2</sup> The institution in this appeal is the respondent board, and the police are part of the board. See paragraphs 26-28 of the interim order.

<sup>3</sup> The term “record” is defined in section 2(1) of the *Act* to include, at paragraph (b), “any record that is capable of being produced from a machine readable record under the control of an institution by means of computer hardware and software or any other information storage equipment and technical expertise normally used by the institution.” However, this definition is subject to regulations under the *Act*. Section 1 of General, RRO 1990, Reg 823 under the *Act* provides that a record capable of being produced from machine readable records does not qualify as a “record” for the purposes of the *Act* “if the process of producing it would unreasonably interfere with the operations of an institution.”

extension of time to conduct this search and respond to this order.

## **RECORDS:**

[16] At issue is a line-by-line breakdown of the 2020 police budget, “organized by individual program area, function, and service delivered,” for each of the following six police units and services:

- Intelligence Services unit;
- Organized Crime Enforcement (“as a unit”); and
- the following additional units/services within the Organized Crime Enforcement unit:
  - Integrated Gun & Gang Task Force,
  - Drug Squad,
  - Financial Crimes, and
  - Prov. ROPE, Bail & Parole, Fugitive Squad.

[17] In his access request, the appellant specified that the request covers the period January 1, 2020 to “the day on which this request is processed by the institution.”

[18] I have found that the request covers detailed budget information only for the 2020 police budget, including any revisions to the 2020 budget up to the date of processing the request (see paragraph 73 of the first interim order).

## **DISCUSSION:**

[19] The sole issue left to be addressed in this appeal is whether the board has conducted a reasonable search in satisfaction of its obligations of the *Act*.

[20] During the inquiry leading to the first interim order, and again before issuing this second interim order, I provided the board with guidance on how the IPC has interpreted the *Act*'s requirements around an institution's search for records in response to an access request. As noted in that guidance, if a requester claims that responsive records exist beyond those found by an institution, the issue is whether the institution has conducted a reasonable search as required by section 17 of the *Act*.<sup>4</sup>

[21] The *Act* does not require an institution to prove with certainty that further records

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<sup>4</sup> Orders P-85, P-221, and PO-1954-I.

do not exist.<sup>5</sup> However, the institution must provide enough evidence to show that it has made a reasonable effort to identify and locate responsive records.<sup>6</sup> A reasonable search is one in which an experienced employee knowledgeable in the subject matter of the request makes a reasonable effort to locate records that are reasonably related to the request.<sup>7</sup> If the institution does not provide enough evidence to show that it has made a reasonable effort to identify and locate all responsive records in its custody or control, the IPC will order a further search.<sup>8</sup>

[22] After receiving the board's revised decision, I asked the board to explain its statement that the detailed budget information the appellant seeks "never existed and it is not possible to produce this information." As noted above, I asked in particular that the board clarify whether its position is that responsive information exists but cannot be organized in the requested manner, or it is that responsive information does not exist at all—and to explain, in either case, the reasons for its position.

[23] I also told the board that it was unclear to me how the "multi-year Service-Based Budgeting Initiative" described in the board's revised decision, which was adopted by the police in 2021, relates to the police budgeting process for 2020, including whether and how this initiative resulted in any changes to the manner in which the police collected, compiled, or tracked information about the 2020 police budget. I further noted that the board had failed to address the following findings I made in the first interim order (at paragraphs 77 and 78):

In support of his assertion that the detailed budget information he seeks must exist within the board's record holdings, the appellant produced public documentation about the programs he describes [footnote removed], and an affidavit from a former board chair about the police budget approval process [Alok Mukherjee, chair of the board from 2005 to 2015]. The former board chair says that in his experience, the process of approving the police's annual operating budget involved board scrutiny of line-by-line (not aggregate) breakdowns of the police chief's budget proposals, organized by command, unit or service, and individual program, function, or service area. The former board chair also states that the information necessary to prepare or to consider such proposals was retained on several databases over which both the police and the board had access and control.

The board does not address the evidence on this point provided by the appellant, except to say it does not deny that the programs identified by the appellant exist.

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<sup>5</sup> *Youbi-Misaac v. Information and Privacy Commissioner of Ontario*, 2024 ONSC 5049, at para 9, on the analogous requirement in the provincial equivalent to the *Act*.

<sup>6</sup> Orders P-624 and PO-2559.

<sup>7</sup> Orders M-909, PO-2469, and PO-2592.

<sup>8</sup> Order MO-2185.

[24] I asked the board to provide its further representations in the form of an affidavit from a person with knowledge of the issues.

[25] In response, the board provided an affidavit from a long-time police financial planner whose role includes the preparation of police operating budget requests.

[26] To explain why the board had not disclosed 2020 budget information for specific programs identified by the appellant, the financial planner says: "Our financial systems are not designed or set up to capture or track expenditures for these particular items or programs."

[27] The financial planner then elaborates on the "service-based budgeting initiative" adopted by the police in 2021. He explains that the initiative breaks down police budgets into six key service areas: 911 Responsive & Patrol; Investigations & Victim Support; Crime Prevention; Events & Protests; Traffic & Parking Enforcement; Courts and Prisoner Management. He says:

The above breakdown is across the entire [police], and as such, our financial systems are in the process of being configured to enable to support generation and compilation of this information. The units for which information has been originally requested all fall into the category of Investigations & Victim Support. While future budgets will continue to expand this work, no other program breakdown is currently available.

[28] The financial planner did not directly address whether the 2020 budget information sought by the appellant exists anywhere in the board's record holdings, or can be produced from information in those record holdings, whether or not it is not currently "captured" or "tracked" or "broken down" in the police's financial systems to the requested level of detail.

[29] I thus shared with the parties my preliminary view that the board had not established that the detailed budget information at issue in this appeal does not exist in its custody or control. I also asked the board to state explicitly if its claim is, instead, that responsive information does exist but cannot be produced in the form of a "record" accessible under the *Act*.<sup>9</sup> In either case, I asked the board to clearly articulate and to provide reasons for its position.

[30] In response, the board provided additional affidavits from other board and police staff. This additional evidence does not assist in clarifying or supporting the board's revised position that responsive information "never existed and it is not possible to produce this information," as I will explain.

[31] The first affidavit is from the board administrator, whose role includes responding to access requests where the board may have responsive records. Through this affidavit,

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<sup>9</sup> See footnote 3.



the board addresses, for the first time, the evidence of a former board chair who was in that role from 2005 to 2015. As noted above (at paragraph 23 of this order), the appellant had raised this evidence during the inquiry leading to the first interim order, and I had specifically asked the board to address this evidence following its revised decision.

[32] To reiterate, the former board chair had reported that in his experience, the process of approving police budgets involved scrutiny of line-by-line breakdowns of police budget proposals, organized by command, unit or service, and individual program, function, or service area—i.e., breakdowns to the level of detail the appellant now seeks for the 2020 police budget. The board chair also recalled that the information necessary to prepare or to consider such proposals was retained on several databases over which both the police and the board had access and control.

[33] In the new affidavit, the board administrator states that she has examined the type of budget information the board received in 2014 (which the former board chair would have seen during his tenure) and “found it to be the same type of information” that the board received in 2020. She then refers again to the board’s new budget transparency policy, approved in 2021. Her affidavit is accompanied by a copy of the minutes of the 2014 public board meeting (at which the board considered the police’s 2015 budget request) and related materials, and the budget transparency policy approved in 2021.

[34] I shared this affidavit with the appellant for his comments. The appellant makes the same observation I do about the board administrator’s statement that police budget proposals for 2014 and 2020 contained the “same type of information”—namely, that this statement does not refute the former board chair’s assertion that the line-by-line budget breakdowns he received during his tenure as board chair were organized by command, unit or service, and individual program, function, or service area.

[35] One logical inference to be drawn from the board administrator’s evidence is that the board received the same type of detailed budget breakdown (e.g., by individual program, function, or service area) for the 2020 police budget. I also agree with the appellant that the appendices to the board administrator’s affidavit (i.e., an extract from a 2014 public board meeting, and a 2021 board report on the new budget transparency policy) do not challenge this conclusion. They also do not support the board’s assertion that the requested budget information does not exist.

[36] The second affidavit is from the director of the police’s finance and business management unit, whose role includes preparing police operating budget requests.

[37] First, the director asserts that the board’s disclosures to the appellant to date (i.e., the aggregate budget information the board initially disclosed, and the additional disclosure it made during the inquiry that led to the first interim order) satisfy the appellant’s request for access to “line-by-line” budget information. I already rejected this claim in the first interim decision, finding that the board’s disclosures to date do not fully

respond to the appellant's access request.

[38] Next, the director addresses the appellant's evidence from the former board chair. In contradiction to what the board administrator states in her affidavit, the director says that the "budget process, industry approaches, and budget information has evolved since that time" (i.e., since the end of the former board chair's term in 2015). She describes the changes this way: "In recent years, efforts have been made to improve the information that is prepared for the budget review process so that it is more easily consumed by the public, better demonstrates the value of the services provided and allows for more strategic decision-making in reviewing and approving the budget."

[39] The director repeats the assertion, made by the police financial planner in his affidavit, that police financial systems "are not designed to capture or track particular items or programs referenced by the appellant." She then states (emphases mine):

Very specific program areas that cross multiple units and line items across all of the police service budgets are not something that is produced as part of the budget review process as referenced by the appellant, unless there is a specific request by the Board on certain costs when reviewing the budget or if there is a request included in the budget as a new and enhanced initiative that is creating additional budget pressure. This would then involve manual work to identify and analyze individual related costs to summarize those for the Board. There is not a list of these programs and associated costs that when added together make up the sum of the budget request.

[40] Then the director reiterates that under the board's new budget transparency policy, "and in alignment with the City of Toronto's budget modernization journey," the police began in 2021 to disclose the police budget by the six "key service categories" described earlier by the financial planner.<sup>10</sup> The director says this reflects an evolution of municipal budgeting from line-item budgeting to a service-based approach. Thus, she says, in response to the 2021 budget transparency policy that requires the police chief "to post an annual line-by-line breakdown organized by 'individual program area, function and service delivered,'" the police now release a "line-by-line budget by Unit and Command that is reflective of the organizational structure [...] aligned by different functional areas/programs." She says:

This is a journey that will continue as data collection and reporting is improved and system changes are made. This information is now shown in the report to the [board] for approval of the operating budget along with information on service levels, demands, outcomes and other information. While it is understood that the [board] policy could be subject to

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<sup>10</sup> Being 911 Responsive & Patrol; Investigations & Victim Support; Crime Prevention; Events & Protests; Traffic & Parking Enforcement; Courts and Prisoner Management.

interpretation, this is the interpretation that the police service has taken and which aligns with the intended budget modernization journey of both the police service and the City of Toronto.

[41] So, on the one hand, the director repeats the assertion that the police's financial systems are not "designed to capture or track" amounts allocated to specific items or programs described by the appellant. On the other hand, she acknowledges that the police are able, upon "specific request by the board," to produce more detailed budget information—including, it would appear, "very specific program areas that cross multiple units and line items across all of the police service budgets." She says that while there is no "list of these programs and associated costs," detailed budget information for such programs can, in fact, be produced, through "manual work to identify and analyze individual related costs."

[42] What the director fails to explain is why the police did not treat the appellant's access request in the same way it treats a "specific request" from the board, and why it did not engage in the manual work necessary to respond to the appellant's access request for detailed budget information for 2020, broken down into specific components.

[43] In addition, I continue to question the relevance to this appeal of the board's budget transparency policy, approved in 2021, and the police's "budget modernization journey" that started with the police's 2021 budget. The board has referred numerous times to the impact of these initiatives on the police's organization and reporting of budget information after 2021, but it has repeatedly failed to directly address my question about the relevance of these initiatives to its ability to locate or compile information responsive to the appellant's request for specific budget information for the year 2020. While I have specifically asked the board to explain how whether and how these initiatives resulted in any changes to the manner in which the police collected, compiled, or tracked information about the 2020 police budget, I have not to date received a clear answer from the board.

[44] When given an opportunity to comment on the board's newest evidence, the appellant identified these same contradictions both within and between the newest affidavits provided by the board. The appellant believes the director's evidence confirms that the detailed budget information he seeks is available to the board; he notes this conclusion is also consistent with the evidence of the former board chair. In further support of his position, the appellant encloses two police reports, dated 2019 and 2020, about specific police programs for which he seeks budget information.<sup>11</sup> The appellant notes that these reports contain information about the financial implications of the programs, which indicates to him that the board is able to compile program-specific budget information when it wants to—even if the police's financial systems are not currently designed or set up to capture or track this information.

[45] In addition, the appellant observes, as I do, that although the board says it has

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<sup>11</sup> The police's Conducted Energy Weapons and Mobile Crisis Intervention Team programs.

conducted a reasonable search as required by section 17 of the *Act*, it has not provided any details about its search efforts to show that it has done so.

[46] I gave the board an opportunity to address the appellant's observations about its latest affidavits. In reply, the board says that the appellant has misconstrued or misunderstood its evidence, but it does not identify or clarify any particular points of misunderstanding. The board also says the appellant's position is based on bare allegations, without support for his claims. I disagree. I have specifically asked the board to address certain evidence from the appellant that I find to be clear and compelling (for example, the evidence of the former board chair). I have repeatedly asked the board to address certain inconsistencies or lack of clarity in its representations, which it has failed to do, despite ample opportunity. In its last set of representations, the board says it stands by its previous representations and its "position regarding the non-existence of the records at issue." This position is contradicted by its own evidence that upon request, the police are able to compile detailed budget information that goes beyond the higher-level information that police financial systems track and capture as a matter of course.

[47] For all these reasons, I remain unpersuaded of a reasonable basis for the board's position that the detailed 2020 police budget information the appellant seeks does not exist. To be clear, this is not a finding that responsive information does, in fact, exist, or can be produced for the purposes of the *Act*. My finding, based on all the evidence before me, is that the board has not, to date, satisfied its obligations under the *Act* to take reasonable steps to identify and to locate information responsive to the appellant's access request under the *Act*.

[48] I will therefore order the board to conduct a new search for responsive information in the board's record holdings, which include the police's record holdings. The board must provide me with an explanation of its search efforts, along with a decision on access to any newly located responsive information. If, following this search, the board concludes that responsive information does not exist anywhere in its record holdings, or cannot otherwise be produced for the purposes of access under the *Act*, the board must provide me with a detailed explanation of how it reached this conclusion. The board is to conduct this search and provide its representations by the date specified below.

[49] Finally, I do not permit the board to seek an extension of time to comply with this second interim order. I set out the long history of this appeal in the first interim order (including particularly at paragraphs 80 to 86), and will not repeat it all here. I reiterate that the board's changing, and at times inconsistent, positions on the appellant's access request—both before and during the appeal process—have significantly impeded the appellant's ability to exercise his rights under the *Act*. I note again that since receiving the appellant's access request in November 2020, the board has had ample opportunity to search its record holdings, and that by its own telling it has (through the police) engaged in multiple rounds of consultations with stakeholders regarding the appellant's access request. The board ought by now to be able to readily locate or compile the requested information, or explain why the information cannot be located or compiled,

and to respond to this second interim order without further delay.

**INTERIM ORDER:**

1. I order the board to conduct a search in response to the appellant’s request for access to detailed 2020 police budget information, as set out more particularly in paragraph 1 of this interim order. The board must conduct this search and provide me with a written explanation of its search efforts **by November 29, 2024**.

The board’s explanation must include details of the searches carried out, including, at a minimum: who conducted/who was contacted in the course of the searches; the places searched; the types of files searched; and the results of the searches.

The board’s explanation should be accompanied by affidavit(s) signed by person(s) with direct knowledge of the facts being sworn to (e.g., the person who coordinates the searches, or the persons who conduct the actual searches). In preparing its affidavit evidence, the board should have regard to *Practice Direction #6*.

I will share the board’s representations with the appellant unless they meet the confidentiality criteria identified in *Practice Direction #7*. If the board seeks to withhold any portion(s) of its representations, it must explain how these portion(s) meet the confidentiality criteria.

2. If the board locates responsive information as a result of its new search, it must issue an access decision to the appellant in respect of this information **by no later than November 29, 2024**. The board must copy me on this decision.
3. If, following the board’s search, the board concludes that responsive information does not exist, or cannot be produced in the form of a “record” within the meaning of the *Act*, the board must provide me with a detailed explanation for its conclusion. The board must provide me with this explanation **by no later than November 29, 2024**.

I will share the board’s representations with the appellant unless they meet the confidentiality criteria identified in *Practice Direction #7*. If the board seeks to withhold any portion(s) of its representations, it must explain how these portion(s) meet the confidentiality criteria.

4. I remain seized of this appeal to address issues arising from this second interim order.

Original Signed by: \_\_\_\_\_

Jenny Ryu  
Adjudicator

November 6, 2024 \_\_\_\_\_

