

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2014-08

January 30, 2014

CITY OF RED DEER

Case File Numbers F5872, F5873

Office URL: www.oipc.ab.ca

Summary: The Applicant made two access requests under the *Freedom of Information and Protection of Privacy Act* (the FOIP Act) to the City of Red Deer (the Public Body). She requested “all records pertaining to myself held by Red Deer transit including [video surveillance]”. She specified that she was seeking records created on or after October 1, 2010. She also requested records regarding herself “from the incidents of October 21, 2010 including security video”.

The Public Body conducted a search for records and identified responsive records. The Public Body severed some information from the records under section 17 (disclosure harmful to personal privacy) and removed nonresponsive information.

The Adjudicator confirmed the Public Body’s decision to sever personally identifying information under section 17, with the exception of the names of employees acting in a representative capacity. The Adjudicator confirmed that the Public Body had conducted a reasonable search for responsive records. However, she noted that it was unclear whether an attachment that was referred to in an email had been provided to the Applicant.

The Adjudicator ordered the Public Body to provide the names of the employees that she found had not been properly severed under section 17. She also ordered the Public Body to search for the attachment and to include the results of its search in a new response.

Statutes Cited: AB: *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 1, 10, 16, 17, 72

Authorities Cited: AB: Orders 2001-016, F2007-029, F2008-028, F2009-026,

Cases Cited: *University of Alberta v. Pylypiuk*, 2002 ABQB 22; *Mount Royal University v. Carter*, 2011 ABQB 28

I. BACKGROUND

[para 1] On March 29, 2011, the Applicant made two requests for records to the City of Red Deer (the Public Body). She requested “all records pertaining to myself held by Red Deer transit including [video surveillance]”. She specified that she was seeking records created on or after October 1, 2010. She also requested records regarding herself “from the incidents of October 21, 2010 including security video”.

[para 2] The Public Body conducted a search for records and identified responsive records. The Public Body provided notice to AMSC Insurance Services (AMSC) that it was considering disclosing some of its completed forms. As AMSC objected to disclosure of the records, the Public Body withheld them under section 16 of the *Freedom of Information and Protection of Privacy Act* (disclosure harmful to third party business interests). The Public Body provided some records to the Applicant, but severed information under section 17 (disclosure harmful to personal privacy) from these and removed nonresponsive information.

The Applicant requested review of the Public Body’s response to her access request, including the adequacy of the search it conducted.

The Commissioner authorized mediation. As mediation was unsuccessful, the matter was scheduled for a written inquiry.

Once the inquiry was scheduled, AMSC determined that it did not object to disclosure of its forms. The Public Body provided these records to the Applicant with its initial submissions. As a result, section 16 is no longer in issue. The Public Body and the Applicant exchanged submissions on the remaining issues.

II. ISSUES

Issue A: Did the Public Body meet its duty to the Applicant as provided by section 10 of the Act (duty to assist applicants)?

Issue B: Does section 17 of the Act (disclosure harmful to personal privacy) apply to the information the Public Body withheld from the records?

III. DISCUSSION OF ISSUES

Issue A: Did the Public Body meet its duty to the Applicant as provided by section 10 of the Act (duty to assist applicants)?

[para 3] Section 10(1) of the FOIP Act establishes the obligations of public bodies in assisting applicants when applicants request access to records. It states:

10(1) The head of a public body must make every reasonable effort to assist applicants and to respond to each applicant openly, accurately and completely.

[para 4] The Public Body has the onus of establishing that it has made every reasonable effort to assist the Applicant, as it is in the best position to explain the steps it has taken to assist the Applicant within the meaning of section 10(1).

[para 5] Previous orders of this Office have established that the duty to assist includes conducting an adequate search for records. In Order 2001-016, the Commissioner said:

In Order 97-003, the Commissioner said that a public body must provide sufficient evidence that it has made a reasonable effort to identify and locate records responsive to the request to discharge its obligation under section 9(1) [now 10(1)] of the Act. In Order 97-006, the Commissioner said that the public body has the burden of proving that it has fulfilled its duty under section 9(1) [now 10(1)].

Previous orders ... say that the public body must show that it conducted an adequate search to fulfill its obligation under section 9(1) [now 10(1)] of the Act. An adequate search has two components: (1) every reasonable effort must be made to search for the actual record requested and (2) the applicant must be informed in a timely fashion about what has been done.

[para 6] In Order F2007-029, the Commissioner described the kind of evidence that assists a decision-maker to determine whether a public body has made reasonable efforts to search for records. He said:

In general, evidence as to the adequacy of a search should cover the following points:

- The specific steps taken by the Public Body to identify and locate records responsive to the Applicant's access request
- The scope of the search conducted – for example: physical sites, program areas, specific databases, off-site storage areas, etc.
- The steps taken to identify and locate all possible repositories of records relevant to the access request: keyword searches, records retention and disposition schedules, etc.
- Who did the search
- Why the Public Body believes no more responsive records exist than what has been found or produced

[para 7] The scope of this portion of the inquiry is to consider whether the Public Body assisted the Applicant by responding to her access request openly, accurately, and completely, which includes consideration of whether the Public Body conducted a reasonable search for responsive records in its custody or control.

[para 8] The Public Body supplied affidavits from all employees involved in the search to establish the steps they took to search for responsive records, where they searched and the results of their searches. From the affidavits and the Public Body's submissions, I infer that the Public Body believes no more responsive records exist than what it has produced, because it has looked in all areas where responsive records could be located, and has provided all the results of its search, including responsive video, to the Applicant.

[para 9] The Applicant challenges the Public Body's search on a number of points.

[para 10] The Applicant argues that the Public Body must have more video containing information about her than it has provided. As evidence that there must be more responsive footage, the Applicant points to the fact that the transit station has six surveillance cameras. In my view, it does not follow from the fact that a public body has multiple surveillance cameras, that all capture the same incidents. Rather, it would seem likely that some of the surveillance cameras would be trained on different areas of the transit station, so that the footage from some of the cameras would not contain responsive information, even though others might contain responsive information.

[para 11] The Public Body has documented its search for video footage, and states that it has provided all responsive video footage it has located to the Applicant in response to a previous access request that she had made, and which is not before me. The Applicant agrees that she received this video, but argues that there must be more video available than the video she received. I find that the Public Body has established that there is no responsive video surveillance other than that which it has located and already provided to the Applicant.

[para 12] The Applicant states that she finds it hard to believe that a supervisor would not make comments on records 2 and 3 of the responsive records for file F5873, which are incident reports. However, from my review of these records, I find that the supervisor did not make comments on these incident reports.

[para 13] The Applicant points to record 9 as indicating that incident reports would be forthcoming from three operators. These reports are the incident reports appearing on records 2 and 3 of file F5873 and so I find that the Public Body has produced the incident reports the Applicant seeks.

[para 14] The Applicant notes that record 16 refers to a picture of her and a memo about her being posted at the transit station. She questions whether she has been provided with the picture and memo. The memo appears on record 17. The picture appears on record 3 of file F5872.

[para 15] The Applicant notes that record 19 indicates that an RCMP constable was at the terminal to speak to an operator about an incident involving the Applicant. She asks whether there should be notes or written material generated by the constable's visit in the

records. Record 19 also indicates that the constable took pictures of the bus lanes. There is no other information about the constable's visit in the records.

[para 16] Record 19, is, in itself, a record generated to document the constable's visit to the transit station. The communication between the constable and the operator was verbal; record 19 was created to document briefly what happened and what was said. It is possible that the constable made notes of the conversation he had with the operator to whom he spoke; however, any such notes would be in the custody or control of the RCMP, and would not necessarily have been provided to the Public Body.

[para 17] Record 20 is a statement made by an employee of the Public Body regarding an incident involving the Applicant. The Applicant notes that other employees were involved in the incident and questions why there are no incident reports created by these employees present in the records. Record 11 contains a report of the incident prepared by the supervisor which documents the actions of the employees involved in the incident. It appears that the employees did not prepare incident reports because the supervisor prepared a report on their behalf.

[para 18] The Applicant states that she believes that emails are missing from records 36 and 37. I note that records 35, 36, and 37 all form part of an email chain. I am unable to agree with the Applicant that anything is missing from these records.

[para 19] Record 44 contains an email from the City Clerk. The email refers to an attached motor vehicle collision statement. The Applicant argues that the attachment was not provided. I note that the records are slightly out of order, and the attachment appears on record 48.

[para 20] Record 49 contains an email. The Applicant states that the attachment the email contains is missing. However, I note that records 50 and 51 are identifiable as the attachment to the email.

[para 21] The Applicant argues that more information should have been provided from record 53. Records 52 – 53 comprise a form entitled "Operations Supervisor's 36 and OS2 Report". The Public Body provided a portion of the report referring to the Applicant to the Applicant. The Public Body provided the headings of the record, the date, and the identification of the person who prepared the record. However, where the record addresses transit matters unrelated to the Applicant, the Public Body removed the information as non-responsive. I agree with the Public Body that the information it removed is non-responsive.

[para 22] Record 55 is a memo to transit supervisors announcing that the Applicant's "no trespass" order has been rescinded. The memo requests that operations supervisors acknowledge receipt of the memo. The senior operations supervisor who composed the memo provides two phone numbers at which he may be contacted. The Applicant notes that there are no acknowledgments from transit supervisors located among the records.

[para 23] The senior operations supervisor did not state that transit supervisors were to provide *written* acknowledgements. Rather, the fact that he provided two phone numbers at which he could be reached suggests that he intended the transit supervisors to contact him by telephone to indicate their acknowledgement. The affidavit of the Public Body's transit manager establishes that the senior operations supervisor's email was a target of the search for responsive records. However, no responsive records, other than those produced in response to the Applicant's access request, were located.

[para 24] It would have been helpful if the Public Body had addressed this concern of the Applicant's directly in its submissions. However, I infer from the telephone numbers provided in the memo that the senior operations supervisor required acknowledgment by telephone. As the Public Body searched through the senior operations supervisor's records and did not locate any acknowledgments, I conclude that there were no *written* acknowledgements of the memo, although there may well have been telephone acknowledgements.

[para 25] The Applicant notes that record 58 of File F5873 contains a request that employees make summaries of the records submitted as part of the response to the Applicant's access request of March 29, 2011. The Applicant questions why summaries do not appear in the records. Strictly speaking, any records created to document the search for responsive records would be outside the scope of the Applicant's access request, as the access request is restricted to records in the custody or control of the Public Body as of March 29, 2011. Any summaries created would have come into existence after March 31, 2011, which is the date of the email on record 58. However, I note that the Public Body has provided in its submissions affidavits from all the employees involved in the search documenting where they looked and what they found. So while any summaries prepared in response to record 58 are outside the scope of the access request, the Public Body has provided the Applicant with summaries of the steps taken to locate responsive records.

[para 26] The Applicant argues that emails are missing from record 66. I am unable to find that anything is missing from this record.

[para 27] The Applicant points to record 69 as confirming that there is video surveillance at the transit terminal. The Public Body states that it has made available all responsive video surveillance in its custody or control to the Applicant.

[para 28] The Applicant argues that emails are missing from records 70, 75, 79, 84, and 89. I am unable to find that any emails are missing from these records.

[para 29] The Applicant points to record 90 as confirming that there is video surveillance at the transit terminal. The Public Body states that it has made available all responsive video surveillance in its custody or control to the Applicant.

[para 30] The Applicant states that the attachment referred to in record 95 of File F5873 is missing. I agree with the Applicant that the attachment does not appear among the records in File F5873. However, it does appear on records 161 – 165 of File F5872, and so I find that the attachment has been provided to the Applicant.

[para 31] The Applicant argues that emails are missing from records 95, 113, 117, 120, 124, 127, 128, 131. These records contain email chains. It does not appear that there are any emails missing from these records.

[para 32] The Applicant states that record 141 of F5873 is missing its attachment. I agree that the attachment does not appear immediately following record 141. However, it appears as records 29 – 34 of file F5873, and so I find that the attachment has been provided to the Applicant.

[para 33] The Applicant notes that record 147 refers to incident reports. She argues that no relevant incident reports have been disclosed. The incident reports appear at records 164 and following. I find that the incident reports have been provided to the Applicant.

[para 34] The Applicant points out that record 155 is missing its attachment. The attachment is entitled: Image001.jpg. The emails do not refer to an attachment, and it is possible that the image may simply be the logo of the Public Body or Red Deer Transit. Unfortunately, the Public Body did not address the Applicant's arguments in its submissions so as to clarify what the attachment consists of and where it might appear in the records. I must therefore ask it to do so, and to provide this attachment to the Applicant if it is responsive to her request and she remains interested in obtaining it once the Public Body has provided the necessary clarification.

[para 35] The Applicant refers to record 162 as missing its attachment. However, I note that the attachment appears in its entirety on record 163. I find that this record has been provided to the Applicant.

Has the Public Body conducted an adequate search for responsive records in its custody or control?

[para 36] The Public Body has documented the steps taken to locate responsive records. I find that its evidence establishes that it conducted an adequate search for responsive records in all locations where responsive records are likely to be located.

[para 37] However, in order to meet its duty to assist the Applicant, within the terms of section 10, I must ask the Public Body to ensure that the Applicant is provided with the attachment referred to on record 155, if it is responsive and not subject to an exception to disclosure, or be provided with an explanation as to what it is if it does not appear to be responsive to her access request or is subject to an exception. I acknowledge that it may have done so already; however, any explanation it has provided to the Applicant was not provided for the inquiry.

Issue B: Does section 17 of the Act (disclosure harmful to personal privacy) apply to the information the Public Body withheld from the records?

[para 38] The Public Body severed the name of a witness and the witness's contact information from the records (records 68, 72, 90, 94, 99, 138 of File F5782 and records 5, 20, 26, 51, and 165 of File F5783). The Public Body also severed the names of two Commissionaires from record 57 of file F5783, the personal email address of an employee and the business email address of a lawyer from an email on record 60 of File F5873. It also withheld a paragraph from record 23 of File F5783 regarding a telephone conversation conducted between an employee of the Public Body and an employee of Alberta Justice and Solicitor General. The Public Body provided all other responsive information to the Applicant.

[para 39] Section 17 requires a public body to withhold the personal information of an identifiable individual when it would be an unreasonable invasion of the individual's personal privacy to disclose his or her personal information.

[para 40] Section 1(n) of the FOIP Act defines personal information. It states:

I In this Act,

(n) "personal information" means recorded information about an identifiable individual, including

- (i) the individual's name, home or business address or home or business telephone number,*
- (ii) the individual's race, national or ethnic origin, colour or religious or political beliefs or associations,*
- (iii) the individual's age, sex, marital status or family status,*
- (iv) an identifying number, symbol or other particular assigned to the individual,*
- (v) the individual's fingerprints, other biometric information, blood type, genetic information or inheritable characteristics,*
- (vi) information about the individual's health and health care history, including information about a physical or mental disability,*
- (vii) information about the individual's educational, financial, employment or criminal history, including criminal records where a pardon has been given,*
- (viii) anyone else's opinions about the individual, and*
- (ix) the individual's personal views or opinions, except if they are about someone else;*

[para 41] Information is personal information within the terms of the FOIP Act if it is recorded and is about an identifiable individual.

[para 42] In Order F2009-026, I said:

If information is about employees of a public body acting in a representative capacity the information is not personal information, as the employee is acting as an agent of a public body. As noted above, the definition of “third party” under the Act excludes a public body. In Order 99-032, the former Commissioner noted:

The Act applies to public bodies. However, public bodies are comprised of members, employees or officers, who act on behalf of public bodies. A public body can act only through those persons.

In other words, the actions of employees acting as employees are the actions of a public body. Consequently, information about an employee acting on behalf of a public body is not information to which section 17 applies, as it is not the personal information of a third party. If, however, there is information of a personal character about an employee of a public body, then the provisions of section 17 may apply to the information. I must therefore consider whether the information about employees in the records at issue is about them acting on behalf of the Public Body, or is information conveying something personal about the employees.

[para 43] In *Mount Royal University v. Carter*, 2011 ABQB 28, the Court denied Mount Royal University’s application for judicial review, finding the above analysis reasonable. I will therefore consider whether the information in the records at issue is non-personal information about third parties acting as representatives of the Public Body or other public bodies, or conveys something personal about them as identifiable individuals.

Information about the Commissionaires (Record 57)

[para 44] I am not satisfied that the information the Public Body withheld from the records regarding the Commissionaires is their personal information. The information the Public Body did disclose is the following:

Posted a memo at the terminal regarding [the Applicant]. Commissionaires [Names withheld under section 17(1)] report her being on the sidewalk writing in a small booklet while looking at signs posted.

The information about the Commissionaires that appears in the foregoing passage is information about the Commissionaires acting in their capacity as Commissionaires. The observation made by the Commissionaires about the Applicant was made in the course of their duties as security services providers, and the information recorded in record 57 does not convey anything personal about the Commissionaires, such that it could be construed as information about them as identifiable individuals.

[para 45] The Public Body has not suggested that disclosure of this information that the Commissionaires reported could have personal consequences for the Commissionaires, and I am unable to find this to be the case in any event.

Information about an employee of Alberta Justice and Solicitor General (Record 23)

[para 46] The Public Body severed all information regarding a telephone call between it and an employee of Alberta Justice and Solicitor General from record 23 under section 17(1), including the name of the employee, the business and cellular telephone number of the employee and the reason for the telephone call.

[para 47] As with the information about the Commissionaires, I find that the information about the employee of Alberta Justice and Solicitor General is information about the employee acting solely in the performance of his work duties and is information about the employee acting as a representative of Alberta Justice and Solicitor General, but not information about him acting as an identifiable individual.

[para 48] I accept that the employee may use the cellular telephone number outside his work duties. I therefore agree with the Public Body that the cellular telephone number has a personal dimension, such that it is personal information within the terms of section 1(n)(i).

Email addresses on record 60

[para 49] The Public Body severed some email addresses, including the email address of the Applicant's lawyer, appearing in the "cc" line of an email appearing on record 60. The email from which this information was severed is addressed to the Applicant. The information was not redacted from the email when it was originally sent to her.

[para 50] In Order F2008-028, the Adjudicator described the situations in which it is not an invasion of personal privacy under section 17 to disclose the contact information of identifiable individuals. He said:

Order F2004-026 (at para. 106) suggested that disclosure of business contact information – which is personal information under section 1(n)(i) – would not be an unreasonable invasion of personal privacy, as such information is routinely disclosed and is publicly available, both of which are relevant circumstances to consider under section 17(5) of the Act. I note other orders of this Office stating that the fact that a third party's personal information is merely business contact information, or of a type normally found on a business card, is a relevant circumstance weighing in favour of disclosure (Order 2001-002 at para. 60; Order F2003-005 at para. 96; Order F2004-015 at para. 96).

Given the foregoing, I find that disclosure of many of the telephone numbers, mailing addresses and e-mail addresses that the Public Body withheld would not be an unreasonable invasion of the personal privacy of third parties. This is where I know or it appears that the third party was acting in a representative, work-related or non-personal capacity and the telephone number, mailing address or e-mail address is one that the third party has chosen to use in the context of carrying out those activities. I point out that a home number, cell number or personal e-mail address (i.e., one not assigned by the public body or organization for which an individual works) may also constitute business contact information if an individual uses it in the course of his or her business, professional or representative activities. In this inquiry, where individuals include a cell number at the bottom of a business-related e-mail or other communication (as on pages 510 and 511), or where individuals send or receive business-related e-mails using what may be a personal e-mail address (as on pages 343 and 345, as well as throughout the records in relation to a communications consultant), I find that disclosure of the telephone number or e-mail

address would not be an unreasonable invasion of personal privacy. Section 17 therefore does not apply.

There may sometimes be circumstances where disclosure of a home number or personal e-mail address that was used in a business context would be an unreasonable invasion of personal privacy and therefore should not be disclosed. For instance, on page 328, a home number is included along with a business number and cell number, leading me to presume that the home number is being included for the limited purpose of allowing a specific other person to contact the individual at a number other than the usual business or cell number. I therefore find that section 17 applies.

There are no circumstances present that would lead me to conclude that the email addresses and names appearing in the first email on record 60 were included for limited purposes, as described in the foregoing excerpt. Rather, the fact that the email was addressed and sent to the Applicant, with the names and email addresses that were severed included in the “cc” line, supports finding that the Public Body’s use of the names and email addresses severed from record 60 was not limited.

[para 51] Rather, it appears that the Public Body may have severed the information from record 60 in error, as elsewhere in the records, where these names and email addresses appear, they have been provided to the Applicant.

[para 52] In any event, given that the email was written to and sent to the Applicant originally with the names and email addresses included, there can be no benefit to withholding the information severed from this record from her now, as it is not an unreasonable invasion of a third party’s personal privacy, by reference to Order F2008-028.

Information about witnesses

[para 53] I agree with the Public Body that information that would serve to identify witnesses to incidents, such as their names and contact information, is personal information within the terms of section 1(n) of the FOIP Act.

[para 54] I will now consider whether the information I have found to be personal information is properly withheld under section 17 of the FOIP Act.

Section 17

[para 55] Section 17 sets out the circumstances in which a public body may or must not disclose the personal information of a third party in response to an access request. It states, in part:

17(1) The head of a public body must refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of a third party’s personal privacy.

[...]

(4) A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy if

(g) the personal information consists of the third party's name when

(i) it appears with other personal information about the third party, or

(ii) the disclosure of the name itself would reveal personal information about the third party[...]

(5) In determining under subsections (1) and (4) whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the head of a public body must consider all the relevant circumstances, including whether

(a) the disclosure is desirable for the purpose of subjecting the activities of the Government of Alberta or a public body to public scrutiny,

(b) the disclosure is likely to promote public health and safety or the protection of the environment,

(c) the personal information is relevant to a fair determination of the applicant's rights,

(d) the disclosure will assist in researching or validating the claims, disputes or grievances of aboriginal people,

(e) the third party will be exposed unfairly to financial or other harm,

(f) the personal information has been supplied in confidence,

(g) the personal information is likely to be inaccurate or unreliable,

(h) the disclosure may unfairly damage the reputation of any person referred to in the record requested by the applicant, and

(i) the personal information was originally provided by the applicant.

[para 56] Section 17 does not say that a public body is *never* allowed to disclose third party personal information. It is only when the disclosure of personal information would be an unreasonable invasion of a third party's personal privacy that a public body must refuse to disclose the information to an applicant under section 17(1). Section 17(2) (not reproduced) establishes that disclosing certain kinds of personal information is not an unreasonable invasion of personal privacy.

[para 57] When the specific types of personal information set out in section 17(4) are involved, disclosure is presumed to be an unreasonable invasion of a third party's personal privacy. To determine whether disclosure of personal information would be an unreasonable invasion of the personal privacy of a third party, a public body must consider and weigh all relevant circumstances under section 17(5) (unless section 17(3), which is restricted in its application, applies). Section 17(5) is not an exhaustive list and any other relevant circumstances must be considered.

[para 58] In *University of Alberta v. Pylypiuk*, 2002 ABQB 22, the Court commented on the interpretation of what is now section 17. The Court said:

In interpreting how these sections work together, the Commissioner noted that s. 16(4) lists a set of circumstances where disclosure of a third party's personal information is presumed to be an unreasonable invasion of a third party's personal privacy. Then, according to the Commissioner, the relevant circumstances listed in s. 16(5) and any other relevant factors, are factors that must be weighed either in favour of or against disclosure of personal information once it has been determined that the information comes within s. 16(1) and (4).

In my opinion, that is a reasonable and correct interpretation of those provisions in s. 16. Once it is determined that the criteria in s. 16(4) is [*sic*] met, the presumption is that disclosure will be an unreasonable invasion of personal privacy, subject to the other factors to be considered in s. 16(5). The factors in s. 16(5) must then be weighed against the presumption in s. 16(4). [my emphasis]

[para 59] Section 17(1) requires a public body to withhold information only once all relevant interests in disclosing and withholding information have been weighed under section 17(5) and, having engaged in this process, the head concludes that it would be an unreasonable invasion of the personal privacy of a third party to disclose his or her personal information.

[para 60] Once the decision is made that a presumption set out in section 17(4) applies to information, then it is necessary to consider all relevant factors under section 17(5) to determine whether it would, or would not be, an unreasonable invasion of a third party's personal privacy to disclose the information. If the decision is made that it would be an unreasonable invasion of personal privacy to disclose the personal information of a third party, the Public Body must then consider whether it is possible to sever the personally identifying information from the record and to provide the remainder to the Applicant, as required by section 6(2) of the FOIP Act.

Witness information

[para 61] I find that both the names and contact information of the witnesses are personal information falling within the terms of section 17(4)(g). I make this finding on the basis that the information consists of the names of the witnesses in the context of other information about the witnesses.

[para 62] I find that none of the factors set out in section 17(5) are relevant to the names and contact information of the witnesses. I also find that no factors weighing in favor of disclosure have been established as relevant in this inquiry. I therefore find that

the presumption created by section 17(4), i.e. that it would be an unreasonable invasion of a third party's personal privacy to disclose the personal information of the witnesses, has not been rebutted. As a result, I find that section 17(1) of the FOIP Act applies to this information.

[para 63] I note that the Public Body has severed the information of the witnesses and provided the remaining information to the Applicant. I find that the severing done by the Public Body meets the requirements of section 6(2) of the FOIP Act.

[para 64] I also find that there are no factors weighing in favor of disclosing the cellular telephone number of the employee of Alberta Justice and Solicitor General. The same holds true for any information that the Public Body withheld under section 17(1) that I have not specifically referenced in this decision.

[para 65] I confirm the Public Body's decision to withhold information under section 17(1), with the exception of the names of the Commissionaires appearing in record 57, the account of the conversation between the Public Body and an employee of Alberta Justice and Solicitor General recorded in record 23, and the information severed from the "cc" line on record 60.

IV. ORDER

[para 66] I make this Order under section 72 of the Act.

[para 67] I order the Public Body to search for the attachment referred to on record 155 and to include the results of its search in a new response to the Applicant.

[para 68] I order the Public Body to produce to the Applicant the names of the Commissionaires appearing on record 57, the account of the conversation between the Public Body and an employee of Alberta Justice and Solicitor General recorded in record 23, with the exception of the employee's cellular telephone number, and the information severed from the "cc" line on record 60.

[para 69] I further order the Public Body to notify me in writing, within 50 days of receiving a copy of this Order, that it has complied with the Order.

Teresa Cunningham
Adjudicator