ALBERTA

OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER

ORDER F2017-45

May 4, 2017

CALGARY POLICE SERVICE

Case File Number 000681

Office URL: www.oipc.ab.ca

Summary: An applicant made an access request under the *Freedom of Information and Protection of Privacy Act* (the FOIP Act) to the Calgary Police Service (the Public Body) regarding a book entitled "The Wolf and the Sheepdog." He asked the Public Body for records containing information that would answer the question of whether it had taken any steps regarding the book. The Applicant provided his grounds for believing that the book was authored by a member of the Public Body.

The Public Body refused to confirm or deny the existence of responsive records, on the basis that doing so would be an unreasonable invasion of a third party's personal privacy under section 12(2)(b) of the FOIP Act.

The Adjudicator determined that the Public Body did not properly apply section 12(2)(b) when refusing to confirm or deny the existence of responsive records. She ordered it to respond to the Applicant's request without relying on section 12(2) of the Act.

Statutes Cited: AB: *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 12, 17, 72

Authorities Cited: AB: Orders 98-009, F2015-28

I. BACKGROUND

[para 1] On February 5, 2015, the Applicant made a request under the *Freedom of Information and Protection of Privacy Act* that the Calgary Police Service (the Public Body) provide him with information regarding the following:

> Given the clear examples of (purportedly non-fictional) police misconduct [in the book The Wolf and the Sheepdog], what steps have you taken in this matter? Have you attempted to locate the officer in question? Have you investigated [Constable X] in any way at all? I ask the same questions in relation to his accomplice CPS officers.
>
> This conduct is, of course criminal. Have any charges been laid? Have you done any form of criminal investigation?
>
> If nothing has been done, will something be done, and if so, when?
>
> What, if anything, has the CPS done to disassociate itself from this and to condemn it?

The Applicant stated the name of the member of the Public Body he believed wrote the book and provided website links referring to the name of the author of *The Wolf and the Sheepdog.* (I shall refer to the author of the Wolf and the Sheepdog as "Constable X" in this order).

[para 2] On March 16, 2015, the Public Body wrote the Applicant and stated that it could not confirm or deny the existence of responsive records. It relied on section 12(2)(b) as authority for this position.

[para 3] The Applicant requested review by the Commissioner of the Public Body's refusal to confirm or deny the existence of responsive records that would serve to answer his questions.

II. ISSUE

Did the Public Body properly refuse to confirm or deny the existence of a record as authorized by section 12(2)(b) of the Act (contents of a response)?

[para 4] Section 12 sets out the contents of a response under the FOIP Act. It also sets out circumstances in which a public body may refuse to confirm or deny the existence of requested records. It states:

> *12(1) In a response under section 11, the applicant must be told*
>
> *(a) whether access to the record or part of it is granted or refused,*
>
> *(b) if access to the record or part of it is granted, where, when and how access will be given, and*
>
> *(c) if access to the record or to part of it is refused,*

> > > *(i) the reasons for the refusal and the provision of this Act on which the refusal is based,*
> > >
> > > *(ii) the name, title, business address and business telephone number of an officer or employee of the public body who can answer the applicant's questions about the refusal, and*
> > >
> > > *(iii) that the applicant may ask for a review of that decision by the Commissioner or an adjudicator, as the case may be.*
>
> *(2) Despite subsection (1)(c)(i), the head of a public body may, in a response, refuse to confirm or deny the existence of*
>
> > *(a) a record containing information described in section 18 or 20, or*
> >
> > *(b) a record containing personal information about a third party if disclosing the existence of the information would be an unreasonable invasion of the third party's personal privacy.*

[para 5] The Public Body argues that it is authorized under section 12(b) to refuse or deny the existence of the records, and is not under a duty to respond to the Applicant under section 12(1). It states:

> […] The Applicant's access request explained that he was seeking access to the records in question because the third party had published a book entitled *The Wolf and the Sheepdog* and the Applicant was of the view that the violence portrayed in the book was true and therefore those involved in the incidents described in the book were deserving of investigation and discipline.
>
> […]
>
> Section 12 of FOIP specifies the minimum information that is to be included in a response to an access request. Generally speaking, a public body must advise an applicant whether the request for access has been granted or denied and if the request is denied, the public body must provide a reason for the refusal. Section 12(2)(b) creates a limited exception to the general rules regarding responses to access requests. It states:
>
> > 12(2) Despite subsection 1(c)(i), the head of a public body may, in a response, refuse to confirm or deny the existence of
> > . . .
> > (b) a record containing personal information about a third party if disclosing the existence of the information would be an unreasonable invasion of the third party's personal privacy.
>
> Order [F2011-010] sets out the requirements that must be met in order for a public body to properly rely on s. 12(2)(b). Paragraphs 9 – 10 of the decision state:
>
> > In order for a public body to properly apply section 12(2)(b) of the Act, it must do each of the following: (a) search for the requested records, determine whether responsive records exist and provide any such records to this Office for review; (b) determine that

> responsive records, if they existed, would contain the personal information of a third party and that disclosure of the existence of the information would be an unreasonable invasion of the third party's personal privacy; and (c) show that it properly exercised its discretion in refusing to confirm or deny the existence of a record by considering the objects and purpose of the Act and providing evidence of what was considered (Order 98-009 at paras. 8 – 10; Order 2000-016 at paras. 35 and 38).
>
> Part (b) of the foregoing test was recently re-worded as requiring the public body to show that confirming the existence of responsive records, if they existed, would reveal personal information of a third party, and to show that revealing this personal information (that the records exist, if they exist) would be an unreasonable invasion of the third party's personal privacy (Order F2010-010 at para. 14).
>
> The test as set out above was recently approved once again in Order F2016-24 at para. 7.
>
> […]
>
> In the present case the Applicant has requested records relating to disciplinary or criminal investigations and outcomes in respect of one of the CPS's former members. When it comes to disciplinary matters, the very existence of a record relating to discipline reveals that a disciplinary proceeding was commenced against an individual. Those who have no history of disciplinary proceedings would have no records. Those who have been the subject of disciplinary investigation or proceedings would have records. The same is true with respect to criminal investigations. Therefore disclosing whether or not records exist would disclose whether or not the individual in question had ever been the subject of disciplinary investigation or proceedings or criminal investigation. [my emphasis]

What personal information would be disclosed by revealing the existence of responsive records?

[para 6] In Order F2015-28, Adjudicator Swanek ordered the Public Body to respond to a requestor who, as in the case before me, had made a request for information regarding any actions taken by the Public Body regarding *The Wolf and the Sheepdog*. In paragraph 1 of that Order she cites the requestor's access request:

> It is the information of [the Applicant] that [Constable X] authored the book "The Wolf and the Sheepdog". In that book, [Constable X] claims that the events are true and that names were changed to protect him and his partner. He claims in his report that he and, at times, his partner, committed criminal assaults, committed obstruction of justice and perjury, committed dangerous driving, conducted an illegal search, committed kidnapping, uttered a death threat, and endangered the life of a prisoner. All of these situations were of the most serious of variety.
>
> My information is that this book was brought to the attention of the Calgary Police Service and that some steps were taken by the Calgary Police Service as a result. I am informed that [Constable X] was assigned to some sort of job which would mean that he would have no contact with members of the public.
>
> I also understand that concerns were raised with the Chief Crown Prosecutor, […], and other prosecutors and that the Calgary Crown was in discussions with the Calgary Police Service about the problem. I understand that one of the issues that was discussed was the investigation of [Constable X] and his partner for criminal conduct.
>
> This is a *FOIPP Act* application for copies of all records which relate to the above described matter and issues.

[para 7] Adjudicator Swanek made the following determinations:

> The Public Body characterizes the Applicant's request as making three assertions:
>
> > a) [Constable X] authored the book "The Wolf and the Sheepdog" that purports to recount true events that implicate him and his partner in criminal activity and serious misconduct;
> >
> > b) The CPS took disciplinary or other employment related steps against [Constable X] as a result; and
> >
> > c) The CPS discussed a criminal investigation of [Constable X] and his partner with the Crown's office. (Initial submission at para. 14)
>
> The Public Body also argues that "confirming the existence (or absence) of responsive records would disclose, among other things, whether or not [Constable X] had disciplinary or other employment related steps taken against him and whether [Constable X] and his partner were the subject of a criminal investigation." (Initial submission at para. 15)
>
> I agree that *if* confirming or denying the existence of responsive records revealed the information as described by the Public Body, that information would be personal information of Constable X. I also agree that confirming or denying the existence of responsive records would reveal *some* personal information about Constable X.
>
> However, I disagree that confirming or denying the existence of responsive records would disclose the information described by the Public Body. The Applicant's access request was broad, referring to "all records which relate to the above described matter and issues." Responsive records may exist if Constable X wrote the book or was suspected of writing the book, even if no investigation or disciplinary action ever took place. Indeed, an email or other record that states that Constable X *did not* write the book, if such existed, would be a responsive record.

Ultimately, Adjudicator Swanek ordered the Public Body in that case to respond to the Applicant without relying on section 12(2) of the FOIP Act. The Public Body did not seek judicial review of this decision, but responded to the Applicant without reliance on section 12(2).

[para 8] The Applicant submitted a copy of the jacket cover of another of Constable X's books in his submissions. This jacket states that Constable X wrote *The Wolf and the Sheep Dog*, and states that *The Wolf and the Sheepdog*:

> […] describes the calls that the author has taken during his first five years of police work.

[para 9] In addition, the jacket states:

> Follow the author through a set of graphic and detailed short stories as you fill his work boots, get an insight to the policing world that you will never read about on any recruiting poster.

[para 10] The Applicant, like the requestor in Order F2015-28, is concerned that *The Wolf and the Sheepdog* is being promoted, not as pure fiction, but as an authentic account of the experience of a member of the Calgary Police Service. Like the requestor in Order F2015-28, the Applicant is concerned that the police actions described in *The Wolf and*

the Sheep Dog are potentially criminal, if they actually happened as they are described, and are not confined solely to the author of the book and may not be fictional. In essence, the Applicant is seeking records that would confirm whether or not the Public Body is aware of the existence of *The Wolf and the Sheepdog*, and if so, whether it has done anything about it.

[para 11] However, it does not follow from the fact that the Applicant has indicated that disciplinary records are among the records that would be responsive to his access request, that confirming or denying the existence of responsive records would confirm the existence or non-existence of disciplinary proceedings.

[para 12] In my view, the access request before me, and the access request before Adjudicator Swanek request the same information. The requestor in Order F2015-28 and the Applicant in this case provided their reasons for believing that Constable X has written a book that purports to be based on real life experience as a Constable with the Public Body, and have requested information as to whether the Public Body has taken action, or not, regarding this book.

[para 13] The Public Body's position in this inquiry is that confirming or denying the existence of responsive records would reveal the following information: whether or not Constable X had ever been the subject of disciplinary investigation or proceedings or criminal investigation. In Order F2015-28, this argument was stated as: "[Confirming the existence of responsive records would reveal that] the CPS took disciplinary or other employment related steps against [Constable X] as a result."

[para 14] Disclosing the existence of responsive records in this case, as in Order F2015-28, would not necessarily serve to confirm the existence of records regarding a criminal investigation or disciplinary proceedings in relation to Constable X or anyone else, given records documenting that the Public Body decided to take no action at all, would also be responsive records. In other words, the Applicant has requested records that would serve to confirm that the Public Body was aware that Constable X was associated with *The Wolf and the Sheepdog* and indicate whether the Public Body took action, or did not, as a result of this knowledge. However, confirming the existence of responsive records would not serve to confirm whether or not the Public Body took action, and would not necessarily reveal the personal information of Constable X.

[para 15] If confirming the existence of responsive records would conclusively confirm the existence of disciplinary proceedings against Constable X, then I would agree that confirming the existence of responsive records would disclose Constable X's personal information. However, I find this not to be the case. In my view, confirming the existence or non-existence of records responsive to the access request would not confirm the existence (or non-existence) of disciplinary or other proceedings against Constable X or anyone else.

[para 16] Adjudicator Swanek's analysis of the information that would be disclosed by confirming or denying the existence of responsive records in the case before her,

applies equally to the information that would be disclosed by confirming the existence of responsive records in the case before me:

> Confirming the existence of records (if they exist) would also reveal that the Public Body knew about the link between Constable X and the book. However, this is not information about Constable X. To give an example, if Bob knows that Sue owns a dog, the fact that Sue owns a dog is information about Sue, but the fact that Bob knows about Sue's dog ownership is information about Bob. Similarly, the fact that the Public Body knows something about Constable X is not information about Constable X; rather, it is information about the Public Body.
>
> While I disagree that confirming or denying the existence of responsive records would reveal the type of personal information the Public Body describes above, i.e "whether or not [Constable X] had disciplinary or other employment related steps taken against him and whether [Constable X] and his partner were the subject of a criminal investigation", it would still reveal some personal information of Constable X. Specifically, the information that would be disclosed by revealing the existence of records (if any existed) would be that the constable wrote the book or was suspected of writing the book. As the Applicant has shown, this information is already in the public domain; therefore, confirming the existence of responsive records (if they exist) would not reveal information about Constable X that is not already in the public domain. Information in the public domain does not cease to be personal information simply because it's in the public domain; however, it is a factor that weighs in favour of disclosure, as I will discuss below.

[para 17] As was the case in Order F2015-28, in the case before me, the only personal information of Constable X that could be learned if the Public Body confirmed the existence of responsive records is that Constable X is the author of *The Wolf and the Sheepdog*. This information is publicly available on the internet and on the back of another book on which Constable X is credited as the author. As noted above, confirming the existence of responsive records, should such exist, would not serve to reveal information regarding Constable X's disciplinary record or that of anyone else, as records documenting only that Constable X is associated with *The Wolf and the Sheepdog* would be responsive. In other words, merely confirming or denying the existence of responsive records would not serve to confirm details of Constable X's employment or disciplinary history.

[para 18] However, I agree with Adjudicator Swanek that Constable X's authorship of *The Wolf and the Sheepdog* is his personal information and that this information would be disclosed by responding to the access request. As a consequence, I must address the question of whether it would be an unreasonable invasion of Constable X's personal privacy to confirm the existence of responsive records.

If records existed, would confirming their existence be an unreasonable invasion of a third party's personal privacy?

[para 19] In Order 98-009, former Commissioner Clark stated:

> I agree with the Public Body's use of section 16 [now section 17] to provide guidance for determining whether the disclosure constitutes an unreasonable invasion of a third party's personal privacy. However, the focus of the analysis must be on whether the disclosure of

> the *existence* [my emphasis] of the information, rather than whether the disclosure of the information itself, would constitute an unreasonable invasion of a third party's personal privacy.

[para 20] The Public Body argues that it would be an unreasonable invasion of the police member's personal privacy if it confirmed that responsive records existed. It states:

> Personal information is broadly defined in the Act and s. 1(n)(vii) states that personal information includes information ". . . about the individual's educational, financial, employment or criminal history, including criminal records where a [pardon has] been given." Disciplinary records are part of the employment history of CPS members and any criminal investigation would be part of that individual's criminal history. It is therefore submitted that the records requested by the Applicant consist of information that falls squarely within the definition of personal information.
>
> Section 17(1) of FOIP prohibits the disclosure of personal information where the disclosure would be an unreasonable invasion of a third party's personal privacy. Section 17(4) sets out the types of personal information the disclosure of which is presumed to be an unreasonable invasion of a third party's personal privacy.
>
> Section 17(4) of the Act states that a disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy if the personal information relates to employment or educational history (s. 17(4)(d)) or the personal information is an identifiable part of a law enforcement record, except to the extent that the disclosure is necessary to dispose of the law enforcement matter or to continue an investigation (s. 17(4)(b)). In the present case, the information sought by the Applicant, if it exists, is related to the third party's employment history in the case of disciplinary records and is an identifiable part of a law enforcement record in the case of any criminal investigation. Accordingly, disclosing such information by confirming or denying the existence of any such records is presumed to be an unreasonable invasion of the third party's personal privacy.
>
> It is worth noting that the Applicant's request for information also engages s. 17(4)(g)(i) which states that a disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy if the personal information consists of the third party's name when it appears with other personal information about the third party. The records in questions are the third party's records and, if they exist, they would contain both his name and other personal information about him, namely information about the existence or non-existence of disciplinary proceeding or criminal investigations. Accordingly, any such disclosure is presumed to be an unreasonable invasion of his privacy.
>
> […]
>
> Section 17(5)(a) indicates we must consider whether the disclosure is desirable for the purpose of subjecting the public body to public scrutiny. However, an Applicant cannot invoke the public interest factor simply because they have a personal interest in the matter. In order for the public interest factor to apply, the Applicant must produce credible evidence establishing a public interest. As the Director Adjudication for the OIPC stated in Order F2014-16 at paragraph 40: "I cannot take into account assertions and speculations that are not based on concrete evidence." This approach was endorsed and followed in Order F2014-27.
>
> In Order F2015-14, at paragraph 26, three factors that must be considered when contemplating the applicability of s. 17(5)(a) are identified. The first factor is whether more than one person has suggested that public scrutiny is necessary. More than eight years after the publication of the

book in question, no one other than the Applicant is suggesting that public scrutiny is warranted in these circumstances.

The second factor is whether the Applicant's concerns are about the actions of more than one person within the public body. In this case, the request for information was limited to records relating to one individual. While the Applicant does make oblique reference to other unnamed CPS officers in his access request, the request was really centered on one individual. Even if such records did exist and even if they disclosed that the former CPS member was engaged in the actions described in book, that would not provide any insight into systemic issues at the CPS, particularly when you take into account the fact that the inquiry would be looking only at a former individual CPS member eight years ago rather than anything that might be relevant to the public today.

The third factor is whether the public body has previously disclosed a substantial amount of information or has investigated the matter in issue. There have been no previous disclosures relating to the records that the Applicant is seeking. Furthermore, the Applicant is seeking information about disciplinary proceedings against the former CPS member in question. The discipline process and the oversight provided in that process fully addresses the public interest issue and therefore disclosure of the disciplinary record is not warranted.

[…]

In assessing the balance between the Applicant's right of access to records and the third party's personal privacy rights, it is also important to note that s. 17(5)(h) weighs against disclosure of the records at issue. The records in question relate to disciplinary matters or criminal investigations that may or may not be valid. Mere allegations, even when unproven, may be very damaging to one's reputation and there would be no protection afforded to the third party to ensure that the mere allegations contained in any records were not treated as fact. The third party should not have the details of any disciplinary or criminal investigations that he was subjected to given to a stranger as any or all of those investigations, if there were any at all, may have been started on the basis of specious allegations that were ultimately without merit.

[para 21] The Public Body argues that it would be an unreasonable invasion of personal privacy to disclose whether responsive records exist. It argues that disclosing the existence or non-existence of responsive records would be an unreasonable invasion of the privacy of Constable X.

[para 22] 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

[…]

(b) the personal information is an identifiable part of a law enforcement record, except to the extent that the disclosure is necessary to dispose of the law enforcement matter or to continue an investigation,

[…]

(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,

[…]

(h) the disclosure may unfairly damage the reputation of any person referred to in the record requested by the applicant […]

[para 23] 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 24] 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 25] Section 17(1) requires a public body to withhold information once all relevant interests in disclosing and withholding information have been weighed under section 17(5) and, having engaged in this process, the head of the public body concludes

that it would be an unreasonable invasion of the personal privacy of a third party to disclose his or her personal information.

[para 26] Once the decision is made that a presumption set out in section 17(4) applies to information, 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.

[para 27] As discussed above, confirming the existence of responsive records, if any exist, would not reveal the personal information the Public Body argues it would. Any record that mentions the book and Constable X may be responsive to the Applicant's request, even information that questions or disputes the link between the book and Constable X, or mentions it casually. The existence of responsive records (if such exist) would not necessarily indicate that the Public Body conducted any criminal, disciplinary, or other investigation regarding Constable X.

[para 28] However, confirming the existence of responsive records, if any, would link Constable X's name with other information about him, namely that he has been linked with the book, *The Wolf and the Sheepdog*. Therefore, section 17(4)(g) applies and creates a presumption that disclosing this personal information is an unreasonable invasion of Constable X's personal privacy.

[para 29] The Public Body argues that confirming that responsive records exist, if any exist, would reveal information that is identifiable as a part of a law enforcement investigation. I disagree. As discussed above, the only disclosure of Constable X's personal information that would be disclosed by confirming the existence of responsive records is that he is linked or associated with the book, *The Wolf and the Sheepdog*. Such information need not be part of a law enforcement file, and it is possible that information responsive to the access request is not contained in a law enforcement file.

[para 30] As section 17(4)(g) applies to the personal information that would be disclosed by confirming or denying the existence of responsive records I find that it is subject to a presumption that it would be an unreasonable invasion of Constable X's personal privacy to disclose it. I turn now to the question of whether there are any factors that would serve to rebut this presumption.

[para 31] The Public Body argues that section 17(5)(a) does not weigh in favor of confirming or denying the existence of responsive records, but that section 17(5)(h) applies and weighs against doing so.

[para 32] I agree with the Public Body that section 17(5)(a) is not clearly engaged in this case. It is not clearly in the public interest to disclose the fact that Constable X is linked with *The Wolf and the Sheepdog*; in any event information linking Constable X with the book is available on the internet and on the jacket of another book he authored.

[para 33] With regard to the Public Body's argument that section 17(5)(h) is engaged, I note that Adjudicator Swanek rejected this argument, stating:

> It seems to me [that the] harm [that] may be done by confirming the existence of responsive records – namely, that the Public Body has records acknowledging a link between Constable X and the book – has already occurred by way of the online information that links Constable X with the book. If responsive records exist, acknowledging their existence would not confirm that Constable X authored the book or that the Public Body investigated that possibility. Therefore, I find that confirming or denying the existence of responsive records would not *lead to* a harm described in sections 17(5)(e) or (h). [emphasis in original]

[para 34] Adjudicator Swanek found the fact that information linking Constable X with *The Wolf and the Sheepdog* exists in the public domain was determinative. She said:

> In Order F2007-003, the Director of Adjudication considered a situation similar to this case, in which an applicant requested records related to the investigation of a particular incident involving named police officers. The applicant in that case showed that the relevant incident was publicly reported in the press and that the named officers were reported to have been involved. The Director stated:
>
> > Revealing whether the records exist would not reveal whether or not [the incident] happened. It would reveal only whether the police made any records relative to their involvement, and whether they kept them if they made them.
>
> A similar statement can be made in this case: revealing whether records exist would not reveal whether Constable X authored the book, or whether the Public Body conducted an investigation (criminal or disciplinary) into whether Constable X authored the book. Disclosing whether responsive records exist would reveal only that the Public Body has records relating to the link that has been publicly made between Constable X and the book. In other words, confirming the existence of records (if they exist) would reveal that the Public Body was aware of information that was in the public domain and that it has written records in relation to the matter.
>
> I find that this is a factor that weighs heavily in favour of disclosing whether or not responsive records exist. The only factor weighing against confirming or denying the existence of records is section 17(4)(g). In my view, the personal information that would be disclosed if the Public Body confirms the existence of records (if any exist) is not sensitive information; it does not reveal anything definitive about Constable X, only a possible link between him and a book with which he has already been publicly linked. I find that the fact that this information is in the public domain outweighs the factor against confirming the existence of responsive records (if any exist).

[para 35] I would add that in the case before me, the evidence establishes that Constable X has publicly stated himself to be the author of *The Wolf and the Sheepdog*, as another book he has written refers to his identity as the author of this book. In my view, the fact that Constable X has held himself out as the author of *The Wolf and the Sheepdog* even more strongly outweighs the presumption that it would be an unreasonable violation of his personal privacy to disclose information linking him to this book.

III. ORDER

[para 36] I make this order under section 72 of the Act.

[para 37] I order the Public Body to respond to the Applicant under section 12(1) of the Act without reliance on section 12(2) of the Act.

[para 38] I order the Public Body to notify me in writing, within 50 days of being given a copy of this order, that it has complied with it.

_____
Teresa Cunningham
Adjudicator