

INFORMATION AND PRIVACY COMMISSIONER OF BRITISH COLUMBIA

In the matter of an inquiry under Part 5
of the *Freedom of Information and Protection of Privacy Act*

Between:

ROB WIPOND

Applicant

And:

VICTORIA POLICE DEPARTMENT

Public Body

AFFIDAVIT

I, Kyle Friesen, Barrister and Solicitor, of 14200 Green Timbers Way, Surrey, British Columbia,
MAKE OATH AND SAY AS FOLLOWS:

1. I am an employee of the Department of Justice Canada and am the Legal Advisor to the Royal Canadian Mounted Police (RCMP) in British Columbia. As such, I have personal knowledge of the facts deposed to in this Affidavit except where stated to be based on information and belief in which case I verily believe those facts to be true.
2. I am a member in good standing of the Law Society of British Columbia and have been a lawyer since 1985. My duties involve providing confidential legal advice to the RCMP, which, from time to time, shares this legal advice with other police agencies that have a common interest in their participation with the RCMP in joint forces operations, multi-agency police task forces led by the RCMP, and other non-public law enforcement working groups.

3. RCMP representatives participate in the British Columbia Association of Chiefs of Police (BCACP) and the British Columbia Association of Municipal Chiefs of Police (BCAMCP). Members of these associations, which include the RCMP, and the independent municipal police forces, and other law enforcement agencies, share a common interest related to efficient and effective law enforcement in British Columbia, generally, and specifically in relation to the legal advice redacted from Document #2 and Document #20, described below. The members of BCACP and BCAMCP exchange information regarding matters of common interest.

4. I have been informed by Tom Zworski, Solicitor for the City of Victoria, and verily believe that an issue has arisen in these proceedings regarding whether the redacted portions of Document #2 and Document #20 in the Inquiry Record are excepted from disclosure pursuant to section 14 (solicitor-client privilege) of the British Columbia *Freedom of Information and Protection of Privacy Act (FOIPP Act)* on the basis that they are subject to solicitor-client privilege. In my capacity as the solicitor who formulated the legal advice that is contained within the redacted portions of these documents, I have set out below the circumstances under which it was communicated to client officials and officials of other policing organizations who share a common interest with the RCMP. I cannot attach the documents as exhibits to this my Affidavit in unredacted form, as to do so would reveal the information that is at issue.

5. Document #2 is an extract from the Minutes of a BCACP meeting, held November 16 and 17, 2011. At that meeting, legal advice that I had provided to client officials with the Royal Canadian Mounted Police at an earlier date was restated on page 6, in the paragraph redacted by the Victoria Police Department under section 14 of the *FOIPP Act*. In this meeting of the BCACP, the legal advice that I initially provided to the RCMP was shared with the police agencies and other participants of the meeting, all of whom had a common interest in the subject matter of the legal advice.

