

**Date:** 20030521

**File:** 02 05 78

**Commissioner:** M<sup>e</sup> Jennifer Stoddart

**X**

Applicant

v.

**VILLE DE MONTRÉAL (Service de  
Police)**

Respondent

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## DECISION

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### **THE APPLICATION FOR REVIEW**

[1] The applicant wrote to what was then the police department of the Montreal Urban Community on November 19, 2001, requesting the tape of a 911 call allegedly placed from McGill University's Human Resource Department on April 18, 2000. This call was directed to the applicant's address.

[2] The respondent replied on November 27, 2001 that it could not locate such a document. On January 24, 2002, the respondent informed the applicant that, following their telephone conversation, it had found a call from another place but that it could not disclose the document because of the restrictions of section 53 of the *Act respecting Access to documents held by public bodies and the Protection of personal information*<sup>1</sup>.

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<sup>1</sup> R.S.Q., c. A-2.1.

[3] On February 12, 2002, the applicant wrote to the respondent, requesting yet again the 911 document in its possession. The applicant filled out an application which specified information for the dates August 18 and 19, 2000.

[4] On February 28, 2002, the respondent acknowledged receiving a letter from the applicant dated February 7, 2002.

[5] On April 16, 2002 the applicant filed a request with the Commission d'accès à l'information (« the Commission ») for review.

[6] The applicant subsequently requested that this request be modified. In a letter received by the Commission on October 16, 2002, the applicant enclosed a new request dated July 4, 2002 for four documents relating to records of 911 telephone calls placed on April 18 and 19, 2000.

## **THE HEARING**

[7] A hearing took place at the offices of the Commission on February 28, 2003, concerning the refusal of the respondent to release information concerning the 911 call placed on April 18, 2000.

### **A) THE EVIDENCE SUBMITTED BY THE PARTIES**

#### **i) The respondent**

[8] The respondent's position was, in general, that only one document existed of the type the applicant was seeking. This document was confidential because it related to police investigation methods and could not be released.

[9] Captain Georges Ménard, who assists with access to information requests for the Service de police de la Ville de Montréal, testified as to the efforts he had made to locate the various documents the applicant wished to obtain. He had spoken with that person personally several times in order to explain the access to information process. He had only been able to locate one document, which was a transcript of a call placed to 911 on April 18, 2000, in spite of undertaking two separate searches. All the information found and accessible to the applicant had been sent.

[10] The letter from the respondent to the applicant, dated July 30, 2002, and introduced in proof as O-1, summarizes the results of his searches:

[...] Vous trouverez ci-joint les appels ainsi que la bande sonore que nous avons localisés relativement aux appels logés au Centre d'urgence 9-1-1, le 24 et 25 avril 2000, ainsi que le 18 mai 2000.

Pour votre information, la conversation entre vous et le préposé du Service de police de la ville de Montréal a été détruite conformément à notre calendrier de conservation.

De plus, vous trouverez ci-joint la transcription de l'appel logé au Centre d'urgence 9-1-1 le 18 avril 2000 pour [...] son adresse. Cependant, certains renseignements ont été retranchés en vertu des articles 28 et 53 de la *Loi sur l'accès aux documents des organismes publics et sur la protection des renseignements personnels*. (Loi 65).  
[...]

[11] Captain Ménard explained how information relating to 911 calls is recorded and archived. When 911 calls come in, a Ville de Montréal employee dispatches these calls to the appropriate destination: fire department, emergency health services or police. Any written record of these initial calls is now kept for five years and audiotapes for six months.

[12] However, in 2000, when the relevant events took place, audiotapes of conversations between the dispatcher and the police were kept for three months and written transcripts for five years.

[13] He also explained that his responsibilities required him to listen to the tapes to which access is requested in order to identify the caller and to ascertain if it is a third party.

[14] The confidential document, the only document he located, was submitted to the Commission.

[15] Counsel for the respondent referred to the confidential document and pleaded that the Act<sup>2</sup> does not allow the respondent to release such information because of its confidential nature. He pointed out that the sections of the document, which had been withheld, contained both information internal to the organization of police emergency services as well as information pertaining to a third party.

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<sup>2</sup> Supra note 1.

ii) The applicant

[16] The applicant expressed incredulity as to the position of the Service de police. The applicant reiterated having, by mistake, requested information for August instead of April and, as a result, having received unwanted information, which was upsetting. The applicant was sceptical about certain information being erased since Captain Ménard mentioned a tape he had listened to. The applicant wished to obtain the contents and the source of the calls made in order to have corrections made. The applicant believes that the employer, Mc Gill University, obtained the confidential number.

## **DECISION**

[17] The *Act respecting Access to documents held by public bodies and the Protection of personal information*<sup>3</sup> states :

28. A respondent must refuse to release or to confirm the existence of information received by a person responsible under the law for the prevention, detection or repression of crime or statutory offences, if its disclosure would likely

(6) reveal the components of a communications system intended for the use of a person responsible for law enforcement;

53. Nominative information is confidential, except in the following cases:

(1) where its disclosure is authorized by the person concerned by the information; in the case of a minor, the authorization may also be given by the person having parental authority;

(2) where it relates to information obtained in the performance of an adjudicative function by a public body performing quasi-judicial functions; the information remains confidential, however, if the body obtained it when holding a sitting in camera or if the information is contemplated by an order not to disclose, publish or distribute.

[18] The Commission has generally respected the confidential nature of the police documents, which record the origins and responses to 911 calls<sup>4</sup>. The document, which the Commission examined, is such a record. Moreover, the Commission notes that the very nature of a 911 emergency call system is predicated on the confidentiality granted to third party callers.

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<sup>3</sup> Supra note 1.

<sup>4</sup> *Thadal et Thadal c. Communauté urbaine de Montréal*, C.A.I. Montréal, n° 01 05 03, 19 décembre 2001, c. Stoddart; *Pilon c. Communauté urbaine de Montréal*, C.A.I. Montréal, n° 00 07 16, 1<sup>er</sup> octobre 2001, c. Constant; *Winters c. Montréal (Communauté urbaine de)* [1987] C.A.I. 370.

[19] The Commission cannot authorize the release of documents in contravention of these principles.

[20] **CONSEQUENTLY, THE COMMISSION:**

[21] **REJECTS** the application; and

[22] **CLOSES** the file.

**JENNIFER STODDART**  
Commissioner

M<sup>e</sup> Paul Quézel  
Attorney of the respondent