



**Information and Privacy
Commissioner/Ontario**

**Commissaire à l'information
et à la protection de la vie privée/Ontario**

ORDER M-410

Appeal M-9400336

London Police Services Board



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NATURE OF THE APPEAL:

This is an appeal under the Municipal Freedom of Information and Protection of Privacy Act (the Act). The London Police Services Board (the Police) received a request for copies of receipts for the purchase of alcoholic or non-alcoholic beverages and food by members of the Police for the time period of June 1, 1993 to October 31, 1993.

The Police responded to the request by providing the appellant with a fee estimate of \$236.50. The Police indicated that a fee waiver, if requested, would not be granted. No reason was given for this refusal. The Police stated that, based on their familiarity with the type and content of the records, the exemptions provided by sections 8(1)(c), 8(2)(a), 14(1)(f) and 14(3)(b) and (d) of the Act may apply to the records. The Police requested payment of a deposit of \$118.25 prior to continue processing the request. The appellant appealed the fee estimate and the refusal to consider an application for fee waiver.

During mediation, the appellant indicated that he was only appealing the fee estimate.

A Notice of Inquiry was provided to the appellant and the Police. Representations were received from the Police only.

DISCUSSION:

FEE ESTIMATE

The costs of the search required by the request and charges related to making the records available to the requester are set out in the Act and the regulations made under the Act. Where no provision is made for a fee to be charged under any other Act, sections 45(1) and (6) of the Act provide that the Board shall require a requester to pay for costs related to the request such as (1) a search charge for every hour of manual search required in excess of two hours to locate a record, (2) the costs of preparing the record for disclosure, (3) computer and other costs incurred in locating, retrieving, processing and copying a record, (4) shipping costs and (5) that the foregoing costs should be paid and distributed according to the regulations made under the Act. Where these costs exceed \$25, the Board is also required to provide a reasonable estimate of the costs.

Section 6 of Reg. 823, R.R.O. 1990 (the Regulation) reads, in part, as follows:

The following are the fees that shall be charged for the purposes of subsection 45(1) of the Act:

1. For photocopies and computer printouts, 20 cents per page.
- ...
3. For manually searching for a record after two hours have been spent searching, \$7.50 for each fifteen minutes spent by any person.

4. For preparing a record for disclosure, including severing a part of the record, \$7.50 for each fifteen minutes spent by any person.

...

The fee estimate provided by the Police can be summarised as follows:

Search Charge:

total search time:	..	8 hours less 2 hours		
chargeable search time: ..		6 hours x \$30.00	=	\$180.00
Preparation time:	..	1 hour x \$30.00	=	30.00
Photocopying charges:	..	120 pages @ \$0.20/page	=	24.00
Shipping costs:	..		=	2.50
		TOTAL		<hr/> \$236.50

In reviewing the fee estimate of the Police, my responsibility under subsection 45(5) of the Act is to ensure that the amount estimated is reasonable in the circumstances. In this regard, the burden of establishing the reasonableness of the estimate rests with the Police. In my view, the Police discharge this burden by providing me with detailed information as to how the fee estimate has been calculated, and by producing sufficient evidence to support their claim.

SEARCH CHARGE

In their representations, the Police state that the search for the records would require eight hours because the records consist of petty cash vouchers and are filed at City Hall together with "many other thousands of vouchers from other various city departments ..." The Police submit that their estimate is conservative, that they anticipate the record to contain approximately 120 pages and that about one-half of these would require to be severed.

The representations of the Police also include the affidavit of a police officer who is the acting Freedom of Information and Privacy Co-ordinator. The affidavit indicates that the type of records requested are retained under the control of the Deputy Chief of Police or his designate, the Cost Accountant. The officer states that he was advised by the Cost Accountant that there are approximately 120 pages and that each page would likely have to be severed to remove personal information.

I have carefully reviewed the representations and the affidavit of the Police. The Police have provided no evidence as to the manner in which the requested records are kept and maintained and what actions were necessary to locate and retrieve the requested records. Other than the fact that the records are filed at City

Hall with "thousands" of similar records while, according to the affidavit, the records are under the control of the Deputy or his designate, the Police have not justified why the search was so lengthy and how the search charges were calculated. It is not even clear if this search is one which must be performed manually or by computer.

Accordingly, because there is no evidence before me to justify the fees for the search, I disallow this portion of the fees charged.

PHOTOCOPIES/PREPARATION TIME

In their representations, the Police state that of the approximately 120 pages, about one-half will need to be severed. As I have previously indicated, the affidavit submitted by the Police on the other hand, states that each page will require severance. The Police have provided no explanation for this discrepancy. The Police have estimated one hour of preparation time. However, it is not clear to me what this estimate is based on. I accept, however, that the invoices will likely contain information that is exempt under the Act. I also accept that these records will have to be prepared for disclosure by removing information that is exempt under the Act. In the absence of any evidence as to the extent and number of severances on each page, if any, I am prepared to allow that one-half of the approximate 120 pages will require to be severed. On this basis, I allow the Police to charge for 30 minutes of preparation time for a total of \$15.

Pursuant to the Regulations, I allow the Police to charge photocopying costs of \$0.20 per page of record disclosed to the appellant. I also find that shipping costs of \$2.50 is reasonable in the circumstances of this appeal.

ORDER:

1. I do not allow the Police to charge for search time.
2. I allow the Police to charge a total of \$17.50 on account of preparation time and shipping costs as follows:
 - (a) \$15 for 30 minutes of preparation time and
 - (b) \$2.50 for shipping costs.
3. I allow the Police to charge photocopying costs at a rate of \$0.20 per page for each page disclosed to the appellant.

Original signed by: _____
Mumtaz Jiwan

_____ October 26, 1994

Inquiry Officer