



Information and Privacy  
Commissioner/Ontario  
Commissaire à l'information  
et à la protection de la vie privée/Ontario

# **ORDER M-552**

**Appeal M-9500203**

**London Police Services Board**



80 Bloor Street West,  
Suite 1700,  
Toronto, Ontario  
M5S 2V1

80, rue Bloor ouest  
Bureau 1700  
Toronto (Ontario)  
M5S 2V1

416-326-3333  
1-800-387-0073  
Fax/Télé: 416-325-9195  
TTY: 416-325-7539  
<http://www.ipc.on.ca>

## **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 access to the telephone bills received for all cellular telephones used by the Police for the month of September, 1994. The Police located records responsive to the request and provided the appellant with a fee estimate of \$14, advising him that some of the information contained in the records may be exempt under the following exemptions contained in the Act:

- law enforcement - sections 8(1)(a), (b), (d) and (g);
- endanger life or safety - section 8(1)(e);
- facilitate commission of unlawful act or hamper control of crime - section 8(1)(l);
- invasion of privacy - section 38(b).

The requester paid the fee required and was granted access to the records with some of the information severed. He appealed the decision to deny access to the undisclosed information and disputed the amount in the fee estimate charged for the preparation of the record.

During the mediation of the appeal, the Police withdrew their reliance on section 38(b) and agreed to disclose certain additional information contained in the records. In addition, the Police raised the application of section 14(1) to the undisclosed information. At this stage of the appeal, the appellant withdrew his request for access to the listing on each bill of the telephone numbers called on the cellular phones and submitted that because he had now been granted access to additional information, the time charged for the severing of this portion of the records should not have been included in the fee estimate provided to him. He argues, therefore, that the amount of the fee estimate should be reduced accordingly.

A Notice of Inquiry was provided to the parties. Representations have been received from the Police only. The information which remains undisclosed on the telephone bills consists of the telephone numbers of the cellular telephones, their users, the account numbers for each (both external and internal), the invoice number and the details of each call, excepting the numbers called on each cellular telephone. The Police withdrew their reliance on section 14(1) in their representations.

## **DISCUSSION:**

### **FACILITATE THE COMMISSION OF AN UNLAWFUL ACT OR HAMPER CONTROL OF CRIME**

Section 8(1)(l) of the Act provides that:

A head may refuse to disclose a record if the disclosure could reasonably be expected to,

facilitate the commission of an unlawful act or hamper the control of crime.

The Police submit that the disclosure of the cellular telephone numbers, the users of each phone, the account and invoice numbers as well as the date, time, originating location and billed time of each call as indicated on the phone bill would hamper their ability to control crime. The Police argue that by making public the cellular telephone numbers, the lines could be tied up, rendering them useless. In addition, the disclosure of the telephone's user, and the date, time, originating location and billed time would reveal information about the location of informants, complainants, victims, suspects and witnesses which may be used to some advantage by those under investigation.

I agree that the ability of the Police to investigate and solve crimes would be adversely affected by the disclosure of the cellular telephone numbers and the names of those who use them, as well as the date, time, originating location and billed time for each call. I find that the Police have provided me with sufficient evidence to demonstrate that there exists a reasonable expectation that the harm envisioned by section 8(1)(l) would occur should this information be disclosed.

I am not persuaded, however, that the disclosure of the account and invoice numbers could reasonably be expected to result in the facilitation of the commission of an unlawful act or interference with the control of crime by the Police. In their representations, the Police have described a scenario whereby an individual might access, through the account numbers, the cellular telephone numbers and other billing information. I find that it is not reasonably probable that, should the account and invoice numbers be disclosed, an individual would then be able to access the other billing information contained on the invoices which I have found to be exempt under section 8(1)(l). Accordingly, I find that the disclosure of the account and invoice numbers could not reasonably be expected to result in the Police being hampered in their ability to control crime.

## **LAW ENFORCEMENT**

Sections 8(1)(a), (b), (d) and (g) of the Act provide that:

A head may refuse to disclose a record if the disclosure could reasonably be expected to,

- (a) interfere with a law enforcement matter;
- (b) interfere with an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result;
- (d) disclose the identity of a confidential source of information in respect of a law enforcement matter, or disclose information furnished only by the confidential source;

- (g) interfere with the gathering of or reveal law enforcement intelligence information respecting organizations or persons.

The remaining information consists of the invoice number of the cellular telephone bill, the account number issued to the London Police by the supplier of the cellular phone service and the internal account number allocated by the London Police to this particular expense. In order for this information to qualify for exemption under these sections, the matter which generated the record must satisfy the definition of the term "**law enforcement**" as found in section 2(1) of the Act which states that:

"law enforcement" means,

- (a) policing,
- (b) investigations or inspections that lead or could lead to proceedings in a court or tribunal if a penalty or sanction could be imposed in those proceedings, and
- (c) the conduct of proceedings referred to in clause (b).

The Police submit that the records which contain the remaining information relate to their legislated mandate as stated in the Police Services Act which includes the prevention of crime. While the telephone bills in their complete, unsevered form contain information which relates to law enforcement within the meaning of section 2(1), I find that the account and invoice numbers alone do not relate to the law enforcement activities of the Police. I find that this information is of an administrative nature and does not pertain directly to the work performed by the Police relating to the protection of the public and the prevention of crime. The account and invoice number aspects of the bill relate to the administrative routine of payment and not to the law enforcement activities of the Police. As such, this information does not satisfy the definition of "law enforcement" contained in section 2(1) and it cannot be exempt under sections 8(1)(a), (b), (d) and (g).

### **ENDANGER LIFE OR SAFETY**

Section 8(1)(e) of the Act provides that:

A head may refuse to disclose a record if the disclosure could reasonably be expected to,

endanger the life or physical safety of a law enforcement officer or any other person.

As stated above in my discussion of section 8(1)(l), the Police have described a scenario in which they submit that an individual may be able to use the invoice and account numbers to access the other information which is contained in each of the telephone bills.

I find that I have not been provided with sufficient evidence to demonstrate that should the information be disclosed, it is reasonable to expect that the harm described in section 8(1)(e) would be likely to occur. I find that the scenario described by the Police is not reasonably likely to follow from the disclosure of this information. There does not exist a reasonable expectation that the harm described in this section would occur if the invoice and account numbers were to be disclosed. The exemption provided by section 8(1)(e) is, accordingly, not available to exempt from disclosure the invoice and account numbers which are contained in the records.

### **FEE ESTIMATE**

The appellant submits that, as a result of mediation, additional information which had been severed from the records originally disclosed by the Police was made available to him. In his view, as this information ought to have been disclosed in the first instance, the Police should not be entitled to charge a fee for the time taken severing this portion of the record and he should be provided with a lower fee.

It must be noted that the information which was disclosed following the mediation of the appeal consists of the telephone service providers' QST and GST numbers along with another five digit number. Each of the pages containing this information also includes information which was severed and which I have found to be properly exempt from disclosure under section 8(1)(l).

The Police have claimed and charged for preparation time based on one minute per page of records. In the circumstances of this appeal, I find that this charge is in accordance with section 45 of the Act and the Regulations. Further, I find that the deduction of the time taken to sever the QST, GST and the five digit numbers would not significantly reduce the preparation time which was claimed so as to entitle the appellant to a reduction in the fee quoted.

### **ORDER:**

1. I uphold the decision of the Police not to disclose the cellular telephone numbers and their users, as well as the date, time, originating location and billed time for each call. I also uphold the amount of the fee estimate provided by the Police.
2. I order the Police to disclose to the appellant the account numbers and invoice number contained in the records within twenty-one (21) days of the date of this order.
3. In order to verify compliance with this order, I reserve the right to require the Police to provide me with a copy of the records which are disclosed to the appellant pursuant to Provision 2.

Original signed by: \_\_\_\_\_  
Donald Hale  
Inquiry Officer

\_\_\_\_\_ June 23, 1995