



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

# **ORDER M-558**

**Appeal M-9500190**

**Ottawa-Carleton Regional 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/Télééc: 416-325-9195  
TTY: 416-325-7539  
<http://www.ipc.on.ca>

## **BACKGROUND:**

On December 31, 1994, following the passage of Bill 143 by the Legislative Assembly, the three municipal police forces within the Regional Municipality of Ottawa-Carleton were dissolved and replaced by the Ottawa-Carleton Regional Police Service. The Chief of one of the local police forces, the Ottawa Police Service, resigned from his position to accept the position of Chief of Police of the newly formed Ottawa-Carleton Regional Police Service. The dissolution of the local police forces and the Chief's resignation took place simultaneously.

## **NATURE OF THE APPEAL:**

This is an appeal under the Municipal Freedom of Information and Protection of Privacy Act (the Act). The City of Ottawa received a request for "all records regarding the severance arrangements made between former police chief Brian Ford [the Chief] and the City, including any payments for sick pay, vacation pay and any other moneys paid consequent upon or precipitated by Mr. Ford's resignation, and the dates of such payments". As it appeared that the Ottawa-Carleton Regional Police Services Board (the Board) had a greater interest in the records, the City of Ottawa transferred the request to the Board pursuant to section 18(3) of the Act.

The Board located records responsive to the request and granted partial access to them. The Board relies on the following exemption to deny access to the amount of money paid to the Chief, his personal employee number and social insurance number:

- invasion of privacy - section 14.

The requester appealed the Board's decision to deny access to the undisclosed information. During the mediation of the appeal, the appellant narrowed the scope of his request to the actual dollar figure paid to the Chief by the Ottawa Police Services Board following his resignation. This figure appears on three separate records.

A Notice of Inquiry was provided to the appellant, the Board and the Chief. Representations were received from the appellant and on behalf of the Board.

## **DISCUSSION:**

### **INVASION OF PRIVACY**

Under section 2(1) of the Act, "personal information" is defined to mean recorded information about an identifiable individual. I have reviewed the information at issue and I find that it satisfies the definition of personal information contained in the Act and concerns only the Chief.

Once it has been determined that a record contains personal information, section 14(1) of the Act prohibits its disclosure to any person other than the individual to whom the information relates, except in certain circumstances listed under the section.

In my view, the only exception to the section 14(1) mandatory exemption which has potential application in the circumstances of this appeal is section 14(1)(f) of the Act which reads:

A head shall refuse to disclose personal information to any person other than the individual to whom the information relates except,

if the disclosure does not constitute an unjustified invasion of personal privacy.

Because section 14(1)(f) is an exception to the mandatory exemption which prohibits the disclosure of personal information, in order for me to find that section 14(1)(f) applies, I must find that the disclosure of the personal information would **not** constitute an unjustified invasion of personal privacy.

Section 14(4) of the Act identifies particular types of information where disclosure does **not** constitute an unjustified invasion of personal privacy. Simply stated, if section 14(4) applies, section 14(1) is not available as an exemption from disclosure. Section 14(4)(a) reads:

Despite subsection (3), a disclosure does not constitute an unjustified invasion of personal privacy if it,

discloses the classification, salary range and benefits, or employment responsibilities of an individual who is or was an officer or employee of an institution.

The record at issue is the amount of money paid by the Ottawa Police Services Board to the Chief at the time of his resignation. According to the Board, this figure represents the "accumulated sick leave credits payable to [the Chief] at the time of his retirement and the cash-in-lieu value of the terms of his employment contract (extended medical and life insurance) that were to continue after his retirement".

In addressing the provisions of section 14(4)(a) of the Act, the Board submits that because it disclosed the terms of the Chief's employment contract (including the fact that sick days are to be paid out at the Chief's daily salary) and the total number of days in sick leave credit payable to the Chief, the disclosure of the dollar figure would allow the appellant to calculate the Chief's former salary. It further submits that actual salary amounts are exempt from disclosure under section 14(1) of the Act.

The dollar figure in question, however, is based not only on the Chief's per diem salary but also includes the cash-in-lieu value of his extended life medical and life insurance which were to continue after his retirement. I find that the disclosure of the global figure would not, therefore, disclose the amount of the Chief's salary on a per diem basis. The Board further submits that section 14(4)(a) does not contemplate the disclosure of the actual salary of an employee and similarly should not generally capture the actual dollar value of other terms of someone's employment contract.

In Order M-23, Commissioner Tom Wright made the following comments regarding the definition of benefits within the meaning of this section:

Since the "benefits" that are available to officers or employees of an institution are paid from the "public purse", either directly or indirectly, I believe that it is consistent with the intent of section 14(4)(a) and the purposes of the Act that "benefits" be given a fairly expansive interpretation. In my opinion, the word "benefits" as it is used in section 14(4)(a), means entitlements that an officer or employee receives as a result of being employed by the institution. Generally speaking, these entitlements will be in addition to a base salary. They will include insurance-related benefits such as, life, health, hospital, dental and disability coverage. They will also include sick leave, vacation, leaves of absence, **termination allowance**, death and pension benefits. As well, a right to reimbursement from the institution for moving expenses will come within the meaning of "benefits". (my emphasis)

I agree with the position taken by the Commissioner regarding the interpretation of the term "benefits" within the meaning of section 14(4)(a). From a review of the record and following the interpretation of the section articulated above, I find that the dollar value of what is described in the Chief's employment contract as a terminal allowance to be paid to the Chief for his accumulated sick leave credits and the cash-in-lieu value of the terms of his employment contract for extended medical and life insurance qualifies as a benefit for the purposes of section 14(4). These entitlements were received by the Chief as a result of his being employed by the Ottawa Police Service and were in addition to his base salary. These payments were not earned as a result of his retirement but rather, accrued to the Chief during his employment pursuant to the terms of his employment contract. Accordingly, I find that the disclosure of the records containing the dollar amount would not constitute an unjustified invasion of personal privacy under section 14(1) and they ought to be disclosed.

**ORDER:**

1. I order the Board to disclose the requested dollar figure contained in the records to the appellant within fifteen (15) days of the date of this order.
2. In order to verify compliance with the provisions of this order, I reserve the right to require the Board to provide me with a copy of the records which are disclosed to the appellant pursuant to Provision 1.

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

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July 4, 1995