



Information and Privacy
Commissioner/Ontario

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

ORDER M-761

Appeal M_9500769

Metropolitan Toronto Police Services Board



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NATURE OF THE APPEAL:

The appellant is counsel to the insurers of an individual whose home was destroyed by fire. The appellant has filed a civil action against the Metropolitan Toronto Police Services Board (the Police) as well as a number of institutions as a result of their actions at the time of the fire.

The appellant submitted a request to the Police under the Municipal Freedom of Information and Protection of Privacy Act (the Act). The first part of the request sought access to information and documents related to the training, duties and qualifications of 911 operators employed by the Police and the manuals used by these operators. The second part of the request sought access to the occurrence report and other documents pertaining to the Police investigation of the fire.

The Police located the responsive records and provided the appellant with partial access. The appellant filed an appeal of this decision.

During mediation, the appellant agreed to limit the scope of the appeal to certain sections of one of the operators' manuals, entitled the "Call Taker Operations Manual". The appellant was sent a copy of the index of this manual and she indicated the particular sections which interested her. She stated that she is not seeking access to any personal information contained in the manual.

This office sent a Notice of Inquiry to the Police and the appellant. This notice set out the pages of the manual which are still at issue. The relevant sections of the manual may generally be described as follows:

- Section C1: Introduction** to the Police communications Unit organizational structure, including staffing, scheduling and shift rotation
- Section C2: Rules and Regulations**, including interim instructions and guidelines, software passwords, use of systems, computerized messages, subsequent calls for Police service and "Hotshot" calls
- Section C4: Boundaries and Areas of Responsibility**
- Section C5: General Guidelines for Call Taking**, involving the five W's of call taking: Who, What, Where, When, Weapons, and how to categorize and treat them
- Section C6: General Information re: the Telephone**, including special features, functions, routing of 911 calls and star phone numbers and use
- Section C8: Types of Calls, Events, Calls and Priorities**
- Section C9: Operations of the Computer/Telecommunications workstations, i.e. the Computer Assisted Dispatch (CAD) stations**. This section includes event type codes, priorities, sign on, passwords, specialty icons, inputting and on screen

information. It essentially sets out the software and hardware details and functions necessary to know in order to operate an emergency call taking station. Representations in response to the Notice of Inquiry were received from both parties on the application of the exemptions the Police have claimed to deny access to the above. These exemptions are:

- law enforcement - sections 8(1)(a) and (c)
- facilitate commission of an unlawful act - section 8(1)(l)

DISCUSSION:

LAW ENFORCEMENT

The Police maintain that the records are exempt under sections 8(1)(a) and (c) of the Act. These sections read:

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

- (a) interfere with a law enforcement matter;
- (c) reveal investigative techniques and procedures currently in use or likely to be used in law enforcement;

With regard to the application of section 8(1)(a), the Police state that the manual is the primary instructional/policy/procedural book used by the Police call takers to dispatch Police units to calls for Police services. They submit that, as the dispatching of Police units to these calls is a 24 hour a day, 365 day a year operation, it is therefore an 'ongoing' law enforcement matter and section 8(1)(a) applies.

Even if I were to find that the dispatching of Police services is a "law enforcement **matter**", for the purposes of section 8(1)(a), the submissions of the Police include no evidence to explain how disclosure of the manual could **interfere** with the law enforcement matter. Their representations are limited to information I have set out in the previous paragraph. Accordingly, I find that the Police have provided insufficient evidence to establish the application of section 8(1)(a) of the Act.

The Police also submit that section 8(1)(c) applies as the manual contains police techniques and procedures currently in use in law enforcement. In Order 170, Inquiry Officer John McCamus provided a definition of the phrase "investigative technique or procedure", as found in section 14(1)(c) of the provincial Freedom of Information and Protection of Privacy Act, the equivalent of section 8(1)(c) of the Act. He commented as follows:

In order to constitute an "**investigative technique or procedure**" it must be the case that disclosure of the technique or procedure to the public would hinder or

compromise its effective utilization. The fact that a particular technique or procedure is generally known to the public would normally lead to the conclusion that such compromise would not be effected by disclosure and accordingly that the technique or procedure in question is not within the scope of section 14(1)(c).

I adopt this definition for the purposes of this appeal. The Police have not identified which portions of the manual, if any, constitute investigative techniques or procedures for the purpose of section 8(1)(c). I have reviewed the record and, in my view, the statement of the Police with respect to this exemption, without more, does not constitute sufficient evidence on which I may make a finding that this exemption applies.

FACILITATE THE COMMISSION OF AN UNLAWFUL ACT

The Police submit that the record is exempt pursuant to section 8(1)(l) of the Act which states:

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 records constitute a precise description of how calls are taken, processed and police units dispatched to locations requiring police services. They state that the criteria used for determining levels of importance, the precise steps to be undertaken, and how each action is to be effected are all set out in the record. The Police state that the manual includes detailed descriptions of the technical equipment at the call takers' and dispatchers' positions and how procedures are to be accomplished.

According to the Police, if such information were made available, the safety of both the Police and the public could be compromised by individuals using the information to further their criminal pursuits. The Police provided the following examples of such scenarios:

- (1) By knowing the code/priority of specific incidents, individuals monitoring Police radio would be able to ascertain available Police units for subsequent calls or how many units are apt to be in a specific location, given "x" outstanding calls of "x" priority.
- (2) The disclosure of the record would enable individuals to determine the speed, methodology, comprehensiveness and the reliability of the communications bureau operator in taking information from a caller and relaying it to the officers in the field. Someone who intended to engage in criminal activity could use such information to counter the Police response.
- (3) Information related to boundaries, location of police units at any given time and shift or lunch hour information would allow the law breaker to plan the optimal time for the commission of a crime.
- (4) Knowledge of how simple or complicated a dispatch or call-taking function is would provide an estimated arrival time for the Police response.

- (5) The description of the computer equipment and radio transmission technical details may allow an individual to jam, disrupt or alter a Police signal.

I accept the submissions of the Police that disclosure of some of the information at issue could reasonably be expected to result in the harms described above and thus qualify for exemption pursuant to section 8(1)(l) of the Act. Such information as the types of response units and their call signs, priorities and classification of certain events falls into this category.

However, I find that the majority of the information does not fall within the section 8(1)(l) exemption. This information includes such things as the organizational structure of the communications centre, general rules and regulations, guidelines for call taking including the information to be elicited from callers, the questions to be asked and the procedures to be followed for dispatching assistance.

In their submissions, the Police themselves appear to recognize these two categories of information. The Police state:

The fact that some of the pages or portions thereof would not in themselves, as stand alone documents, be damaging to the institution or public would, however, fall under the category of information described by former Commissioner Sidney Linden who stated that a proper severing job is one where the requester is provided with information responsive to the request and yet where the information that must be protected is so protected. As Mr. Linden phrased it in Order #24, “... **The key question ... is one of reasonableness. In my view it is not reasonable to require a head to sever information from a record if the end result is simply a series of disconnected words or phrases with no coherent meaning or value.**” (original emphasis)

Based on the above, the fact that initially there were originally 540 pages at issue in this appeal and the workload concerns of the Police, the Police decided to exercise their discretion and deny access to the manual in its entirety.

In my view, the Police appear to be taking the position that disclosure of the information that is not subject to any exemptions would be of no value to the appellant and thus they have not undertaken to disclose any information at all. I disagree with this approach. At this time, there are only 175 pages at issue, large portions of which do not fall within any of the exemptions claimed by the Police. Whether this information would have “value” to the appellant, I cannot say. However, it certainly would not consist of meaningless or incoherent words and phrases.

Accordingly, I have provided the Police with a highlighted copy of the record. The Police should disclose the non-highlighted portions of the responsive record to the appellant as these portions do not satisfy any of the exemptions claimed by the Police.

ORDER:

1. I uphold the decision of the Police to deny access to the highlighted portions of the record.

2. I order the Police to disclose the non-highlighted portions of the responsive record to the appellant by sending her a copy by **May 13, 1996**.
3. In order to verify compliance with the provisions of this order, I reserve the right to require the Police to provide me with a copy of the record that is disclosed to the appellant in accordance with Provision 2.

Original signed by: _____

Anita Fineberg
Inquiry Officer

_____ April 26, 1996