



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

# ORDER M-767

Appeal M\_9600070

London Police Services Board



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## NATURE OF THE APPEAL:

The London Police Services Board (the Police) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act). The request was for access to copies of the questionnaire issued to applicants for a Firearms Acquisition Certificate (FAC) and the list of questions given orally by the firearms Registration Officer to the applicants who submitted completed FAC forms.

The Police denied access to the requested information on the basis of the following exemptions contained in the Act:

- law enforcement - section 8(1)(a)
- endanger life or safety - section 8(1)(e)
- third party information - section 10(1)
- examination questions - section 11(h)

The requester (now the appellant) appealed the decision to deny access.

During mediation, the appellant limited the scope of the appeal to the questionnaire. This record is a one-page document consisting of 22 true or false questions. At the top of the page are some general questions relating to the identity of the firearms applicant, the types of firearms the applicant presently owns and those that he or she intends to acquire in the future.

This office sent a Notice of Inquiry to the Police and the appellant. Representations were received from both parties. In their submissions, the Police state that they have withdrawn their reliance on the exemption in section 11(h) of the Act.

## DISCUSSION:

### ENDANGER LIFE OR SAFETY

Section 8(1)(e) of the Act states:

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;

In their submissions, the Police have described the role of the questionnaire as part of the process whereby a firearms officer of the Police determines whether a person should be issued a FAC pursuant to section 106(1) of the Criminal Code. They indicate that the questionnaire is used pursuant to section 106(9) of the Criminal Code which states:

A firearms officer who has received an application for a firearms acquisition certificate may require the applicant to submit such further information in addition to that included in the application as may reasonably be regarded as relevant for the purpose of determining whether there is any matter that might render it dangerous for the safety of the applicant or any other person if the applicant acquired a firearm.

The Police use the questionnaire to screen applicants and to determine if it is desirable in the best interests of the applicant and others to issue the FAC. They have also explained how the questionnaires are used and have provided a copy of the guidelines which have been issued by the Chief Provincial Firearms Officer concerning their use. The primary concern of the Police and the other police agencies that have the authority to issue FAC's, is the safety of the applicant or any other person.

It is the position of the Police that if the questionnaire were disclosed, potential applicants could be "coached" as to the correct answers. The Police state that if this occurred, it would defeat the purpose for which the questionnaire is created and is used. That is, the Police would be unable to determine if, in fact, the applicant posed a danger to himself or any other person. The Police state that the granting of a FAC to an unstable individual **would** endanger the life or physical safety of a law enforcement officer or any other person.

The appellant states that he has been provided with some of the questions on the questionnaire from individuals who have applied for a FAC. He states that, in his opinion, divulging the questions could not pose any threat to any individuals. However, he requires a copy of the complete questionnaire in order to properly review the questions.

In my view, the fact that the appellant may be aware of some of the questions is not determinative of the issue of disclosure in this case. It is clear that such questions were not disclosed pursuant to the Act. In addition, the Police have the discretion to refuse disclosure at this time.

I have carefully considered the submissions of the parties. I find that the Police have provided sufficient evidence to satisfy me that disclosure of the questionnaire could reasonably be expected to endanger the life or physical safety of a law enforcement officer or any other person. Accordingly, the exemption in section 8(1)(e) applies.

Because of this disposition, it is not necessary for me to consider the application of section 8(1)(a) or 10(1) of the Act.

## **ORDER:**

I uphold the decision of the Police.

Original signed by: \_\_\_\_\_

Anita Fineberg  
Inquiry Officer

\_\_\_\_\_ May 6, 1996

**POSTSCRIPT:**

Throughout this appeal, the appellant has referred to his concerns about whether some of the questions in the questionnaire violate the privacy rights of FAC applicants. Should the appellant wish to pursue this matter, he should contact the Compliance Department of this office.