



Information and Privacy
Commissioner/Ontario

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

ORDER P-1429

Appeal P_9700039

Ministry of the Solicitor General and Correctional Services



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NATURE OF THE APPEAL:

The Ministry of the Solicitor General and Correctional Services (the Ministry) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for access to all records relating the investigation of a fire at the requester's place of business. The request included access to witness statements, police officers' notebooks and photographs. The Ministry denied access to the responsive records. The requester appealed the decision to deny access.

The records at issue consist of 241 pages, which include Fire Investigation Reports, statements, Fire Fighter Observation forms, dispatch report, General Occurrence report, supplementary reports, search warrant, case submission form, excerpts from investigator's notebooks, Report of the Centre of Forensic Sciences and photographs.

The Ministry denied access to the above records pursuant to the following exemptions under the Act:

- law enforcement - sections 14(1)(a), (b) and (f)
- invasion of privacy - sections 21(1) and 49(b)
- discretion to refuse requester's own information - section 49(a)

This office provided a Notice of Inquiry to the appellant and the Ministry. Representations were received from both parties.

DISCUSSION:

DISCRETION TO REFUSE REQUESTER'S OWN INFORMATION/LAW ENFORCEMENT

"Personal information" is defined in section 2(1) of the Act, in part, as recorded information about an identifiable individual. I have reviewed the information in the records and find that it relates to the appellant and other identifiable individuals.

Section 47(1) of the Act allows individuals access to their own personal information held by a government institution. However, section 49 sets out exceptions to this general right of access.

Section 49(a) of the Act gives the Ministry the discretion to deny access to records containing a requester's own personal information where certain listed exemptions, including section 14, would otherwise apply. Section 14(1)(a) reads:

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

interfere with a law enforcement matter.

The purpose of the section 14(1) exemption is to provide the Ministry with the discretion to preclude access to records in circumstances where disclosure could reasonably be expected to interfere with an ongoing law enforcement matter. In order for a record to qualify for exemption under this section, the Ministry must establish firstly, that a law enforcement matter is ongoing and secondly, that disclosure of the records could reasonably be expected to interfere with the matter.

The Ministry states that as a result of investigations conducted by the police and the Office of the Fire Marshal, criminal charges have been laid against the appellant. The Ministry states further that the case is now before the courts. I have reviewed the records and the representations of the parties. I find that the records relate to a law enforcement matter which is ongoing and that disclosure of the records would interfere with the matter. Accordingly, I find that section 14(1)(a) applies to the records and they are therefore, properly exempt from disclosure under section 49(a).

Because I have found the records to be exempt under sections 14(1)(a) and 49(a), I need not consider the application of sections 21(1) and 49(b) of the Act.

ORDER:

I uphold the Ministry's decision.

Original signed by: _____
Mumtaz Jiwan
Inquiry Officer

July 21, 1997