



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

# **ORDER MO-1343**

**Appeal MA-000067-1**

**Guelph Police Services Board**



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## **NATURE OF THE APPEAL:**

The Guelph Police Services Board (the Police) received a request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for a copy of the report entitled, "Realizing the Goal - Working Together to Enhance Policing in Guelph - The Report of the Review and Survey of Staff" (the report) prepared by an outside consulting company, dated December 1999.

The Police granted access in full to almost all of the 207-page report, subject to severances contained on three pages. The Police denied access to these severed portions on the basis of section 14(1) of the *Act* (invasion of privacy). The Police stated that the disclosure of the remaining information would constitute a presumed unjustified invasion of privacy under sections 14(3)(d) (employment history) and (g) (personal recommendations or personnel evaluations), and also referred to the factors listed in sections 14(2)(e) (unfair exposure to harm), (f) (highly sensitive), (g) (unlikely to be accurate), (h) (supplied in confidence) and (i) (unfairly damage a person's reputation) in support of the section 14(1) exemption claim.

The requester, now the appellant, appealed the decision of the Police.

I sent a Notice of Inquiry to the Police, and received representations in response. I then sent the Notice to the appellant, together with a copy of the Police's representations. I also provided a copy of the Notice to an individual whose interests could be affected by disclosure of information contained in some severances (the affected person). I received representations from the affected person, but not from the appellant.

## **RECORDS:**

The records at issue consist of the information severed from pages 65, 97 and 98 of the report.

## **DISCUSSION:**

### **PERSONAL INFORMATION**

For section 14(1) to apply, the information contained in the severances must be personal information as defined in section 2(1) of the *Act*, which reads, in part, as follows:

"personal information" means recorded information about an identifiable individual, including,

...

- (b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,

...

- (e) the personal opinions or views of the individual except where they relate to another individual,

- (f) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence,
- (g) the views or opinions of another individual about the individual, and
- (h) the individual's name if it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual;

Page 65

The Police submit that the severed information on page 65 consists of a subjective evaluation of the professional working relationship between two identifiable individuals, and therefore falls within the scope of paragraphs (e) and (g) of the definition. This one, four-line severance summarizes the views and opinions of various employees about the working relationship of two specific Police officials, which were obtained from the survey conducted by the consulting firm. As such, I find that this severance contains the views and opinions of staff members about these two other employees, and satisfies the requirements of paragraph (g) of the definition of personal information. This severance contains the personal information of the two Police officials only.

Page 97

Page 97 contains two related severances. The first is one sentence in the body of the report, and the second is a footnote elaborating on the severed sentence. The Police submit that both severances contain information which falls within the scope of paragraphs (b), (f) and (h) of the definition of personal information. The information contained in these severances relates to training and compensation for police officials in both the Guelph Police Service and other police services. I am satisfied that the information severed from page 97 is the personal information of the three individuals referred to in the severances who received training and compensation.

Page 98

The severance on page 98 consists of one sentence which appears on a list of events referred to in the report. All other events on the list have been disclosed by the Police.

The Police submit that the information contained in this severance consists of the employment history of an identifiable individual, and that the combined considerations of paragraphs (e) and (g) make this information

the personal information of that individual. The affected person also claims that this severance contains his/her personal information. The affected person takes the position that the information in this severance is incomplete, as it only reflects one aspect of a particular management practice and not the entire context. The affected person is concerned that the information contained in the severance is inaccurate and that its disclosure could prejudice his/her reputation in suggesting performance deficiencies that are not present.

Page 98 lists a number of events identified by the consultant that caused concern to staff in the context of the appointment of the Deputy Chief - Corporate Services. The report contains the following statement in introducing the list:

It is apparent from documents, interviews and the survey that the current animosity around this issue in Guelph, whether justified or not, relates to several practices and approaches in the [Guelph Police Service]. In summary these issues are, ...

None of the items on the list that follows this quotation refer to specific individuals by name or position, including the severed sentence. Nor, in my view, can these items accurately be characterized as being “about” any identifiable individual, including the affected person. The specific issue described in the severed sentence identifies a practice normally associated with administrative management, and concerns expressed by staff in this regard. It, as well as the other items on this list, all concern management decisions and practices undertaken by the Police, and for which the Guelph Police Services Board, as an organization, is ultimately accountable. In other words, the information contained in the severance is “about the Police”, not “about an identifiable individual”. It is also worth noting that this same subject matter is referred to a number of times throughout portions of the report that have already been disclosed, and the disclosure of the severance on page 98 would not, in my view, add any new information not known or readily apparent from the disclosed portions of the report.

Accordingly, I find that the severance on page 98 does not contain personal information, as defined in section 2(1) of the *Act*. Because the section 14(1) exemption can only apply as the basis for denying access to “personal information”, the severed sentence on page 98 cannot qualify for exemption under this section, and should be disclosed to the appellant.

## **INVASION OF PRIVACY**

### **Section 14(1)(f)**

Where a requester seeks access to records which contain the personal information of other individuals, but not himself or herself, section 14(1) of the *Act* prohibits the disclosure of this information unless one of the exceptions listed in the section applies. The only exception which might apply in the circumstances of this appeal is section 14(1)(f), which permits disclosure if “the disclosure does not constitute an unjustified invasion of personal privacy.”

Sections 14(2), (3) and (4) of the Act provide guidance in determining whether the disclosure of personal information would result in an unjustified invasion of personal privacy. Where one of the presumptions in section 14(3) applies to the personal information found in a record, the only way such a presumption against disclosure can be overcome is if the personal information falls under section 14(4) or where a finding is made that section 16 of the *Act* applies to the personal information. If none of the presumptions in section 14(3) apply, the Police must consider the application of the factors listed in section 14(2) of the *Act*, as well as all other circumstances that are relevant to the appeal.

Page 65

As described above, the severance on page 65 consists of a subjective evaluation of the professional working relationship between two identifiable individuals employed by the Police. The Police claim that the factors listed in sections 14(2)(f) and (i) are both relevant with respect to the information contained in this severance. I concur. The information consists of the consultant's summary of the views and opinions of those surveyed about the professional working relationship between these two employees. It has not been verified, and due to the nature of this type of opinion information, I am satisfied that it is highly sensitive, and that its disclosure could unfairly damage the reputation of the two employees. The appellant has not pointed to the relevance of any factors favouring disclosure, and I am unable to identify any from my independent review of the records and other file documentation. Therefore, I find that disclosure of the information severed from page 65 would constitute an unjustified invasion of personal privacy, and I uphold the decision of the Police to deny access to this information.

Page 97

The Police claim the presumption in section 14(3)(d) as one basis for denying access to the two severances on page 97. Adjudicator Donald Hale discussed the requirements of this presumption in the context of training provided to firefighters in Order M-609. He stated:

The information about the training course successfully completed by each firefighter is quite detailed. Because of the nature of the training received and the duration of the course, I find that its successful completion represents a significant upgrade to the educational background of those who are so enrolled. I find that professional development through extended training courses such as these merit inclusion within the definition of education history when it appears in a record. I find, therefore, that the information contained in the records relates to the educational history of the individual firefighters whose names appear on them. Accordingly, I find that the disclosure of the personal information in the records would constitute a presumed unjustified invasion of the personal privacy of the firefighters under section 14(3)(d).

Adopting the approach followed by Adjudicator Hale, in my view, for information to qualify as “employment or educational history”, the information must contain some significant part of the history of the person’s employment or education. What is or is not a significant part of the person’s employment or educational history must be determined based on the facts of each case. I am satisfied that the information contained in the severances on page 97 relates to the educational history of identifiable individuals. The information concerning training set out on page 97 was collected to undertake a comparative review of a senior position in the Guelph Police Service with similar positions in other police services. The individuals on the other police forces were contacted to obtain information for this analysis, and the severed information outlines the training and remuneration provided to individuals both inside and outside the Guelph Police Service. Although the training is not discussed in detail, the specific nature of the training is described, and the individuals who did or did not receive the training are identifiable. Consequently, I am satisfied that the disclosure of the information severed from page 97 would be presumed to constitute an unjustified invasion of the personal privacy of the individuals identified in the severance, pursuant to section 14(3)(d) of the *Act*. None of this personal information falls within any of the exceptions provided by section 14(4), and section 16 has not been raised by the appellant in the circumstances of this appeal. Therefore, I uphold the decision of the Police to deny access to the two severances on page 97.

**ORDER:**

1. I order the Police to disclose the severed information on page 98 of the record by sending the appellant a copy by **November 2, 2000**, but not before **October 30, 2000**.
2. I uphold the Police’s decision to deny access to the severed information on pages 65 and 97 of the record.
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 portion of the record which is disclosed to the appellant pursuant to Provision 1.

Original signed by: \_\_\_\_\_  
Tom Mitchinson  
Assistant Commissioner

\_\_\_\_\_  
September 27, 2000