



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

ORDER M-565

Appeal M-9500146

Amherstburg Police Services Board



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NATURE OF THE APPEAL:

This is an appeal under the Municipal Freedom of Information and Protection of Privacy Act (the Act). The Amherstburg Police Services Board (the Police) received a request for the cost of the transcript of a particular Workers' Compensation Board hearing, who paid for the transcript, and a copy of a report made by the Chief of Police regarding the requester's April 6, 1994 letter to the Police.

The Police located one record, an entry on a form, which indicated the cost of the transcript. The Police rely on the following exemption to deny access to the record:

- invasion of privacy - section 14

The Police informed the appellant that additional records responsive to the request do not exist.

A Notice of Inquiry was provided to the appellant, the Police and the individual involved in the hearing. Representations were received from the Police and the appellant.

DISCUSSION:

INVASION OF PRIVACY

The term "personal information" is defined in section 2(1) of the Act, in part, as recorded information about an identifiable individual. Having reviewed the record and the representations of the parties, in my view, the record does not contain the personal information of the individual involved in the hearing or the appellant. Nor does it contain the personal information of the person whose name appears in the record. The individual named in the record is the person who received payment for transcribing the hearing.

Because I have determined that the record does not contain personal information, section 14(1) of the Act does not apply. As the Police have not claimed any other discretionary exemptions and, in my view, no other mandatory exemption applies, I find the record should be disclosed to the appellant.

REASONABLENESS OF SEARCH

It is my responsibility to ensure that the Police have properly discharged their obligation under the Act by making a reasonable effort to search for and identify records which are responsive to the other request, specifically, a report made by the Chief of Police regarding the requester's April 6, 1994 letter to the Police.

When the requester provides sufficient detail about the records which he or she is seeking and the Police indicate that such records do not exist, the Police must provide me with sufficient evidence to show that they have made a **reasonable** effort to locate the record. However, the Act does not require the Police to prove to a degree of absolute certainty that the requested record does not exist.

The Police addressed the issue of their search for the record which would respond to the request in their representations and by providing an affidavit signed by the Freedom of Information and Privacy Co-ordinator for the Police. The affidavit outlined the steps which were taken to locate a record responsive to

the appellant's request.

I have carefully reviewed the representations of the Police. I am satisfied that the Police have taken all reasonable steps to locate the records which would be responsive to the appellant's request and I find that the search was reasonable in the circumstances of this appeal.

ORDER:

1. I order the Police to disclose the record to the appellant within thirty-five (35) days following the date of this order, but not earlier than the thirtieth (30th) day after the date of this order.
2. In order to verify compliance with this order, I reserve the right to require the Police to provide me with a copy of the record which is disclosed to the appellant pursuant to Provision 1.

Original signed by: _____
Holly Big Canoe
Inquiry Officer

_____ July 14, 1995