



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

ORDER M-551

Appeal M-9500076

Metropolitan Toronto 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 Metropolitan Toronto Police Services Board (the Police) received a request for a summary listing of billings for all cellular telephones used by the Police for the September 1994 billing period. In particular, the requester sought the cellular telephone numbers and their total monthly usage.

The Police located seven pages of records and granted the requester partial access to them, relying on the following exemption to deny access to the cellular telephone numbers:

- economic and other interests - section 11(d).

The Police also indicated that portions of the records had been withheld as non-responsive.

The appellant appealed the denial of access only. A Notice of Inquiry was provided to the Police and the appellant. Representations were received from both parties.

DISCUSSION:

ECONOMIC AND OTHER INTERESTS

Section 11(d) of the Act provides:

A head may refuse to disclose a record that contains,

information whose disclosure could reasonably be expected to be injurious to the financial interests of an institution;

In their representations, the Police indicate that unlike ordinary telephone service, where a call is billed to the person making the call, cellular telephone calls are billed to the recipient of the call. The Police provide the per minute rate at which cellular telephone calls are billed, and indicate that it is reasonably foreseeable that through use or dissemination of the cellular telephone numbers, these telephones would be exposed to unauthorized use, with resultant costs to be borne by the Police.

In his representations, the appellant submits that there is a high evidentiary burden on the Police to establish that disclosure of the exempted material could reasonably be expected to cause the harm envisioned. He contends that it is possible to argue, hypothetically, an infinite number of possible harms that could occur from disclosure, but that this is insufficient to satisfy the requirements of the section.

I agree that hypothetical possibilities without any basis in reason would not be sufficient to satisfy the onus on the Police to bring the exempted portions of the records within the scope of this section. However, I find that because calls are paid on an in-coming as opposed to an out-going basis, and the charge is placed on the call at the time a connection is made, disclosure of the cellular telephone numbers would significantly compromise the ability of the Police to control expenditures associated with these telephones. Accordingly, I find that disclosure of these numbers could reasonably be expected to be injurious to their financial

interests. Therefore, I find that the cellular telephone numbers are properly exempt under section 11(d) of the Act.

ORDER:

I uphold the decision of the Police.

Original signed by: _____
Laurel Cropley
Inquiry Officer

_____ June 19, 1995