



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

# ORDER M-788

Appeal M\_9600090

Goderich Police Services Board



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## NATURE OF THE APPEAL:

The Goderich Police Services Board (the Police) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to a portion of the Police audio communication tape recorded on February 17, 1994 and any transcript extracted from it. The portion of the tape which was requested recorded a telephone conversation between the requester, a Sergeant with the local Ontario Provincial Police (OPP) detachment, and the former Chief of the Goderich Police Service (the former Chief). The Police located the requested transcript and denied access to it, claiming the application of the following exemption contained in the Act:

- invasion of privacy - section 14(1)

The requester (now the appellant) appealed the decision of the Police to deny access to the transcript. During the mediation of the appeal, a second decision letter was provided to the appellant in which the Police clarified to him that the audio tape no longer exists as it has been erased. The appellant did not object to this narrowing of the request and the sole record at issue is, accordingly, the six-page transcript of the telephone conversation between the former Chief and the appellant.

A Notice of Inquiry was provided to the Police, the appellant and the former Chief. Representations were received from the Police and the former Chief. Because the record may contain the personal information of the requester, the parties were invited to submit representations on the possible application of section 38(b) of the Act.

The record at issue in this appeal was also the subject of Order M-608 in which I denied a newspaper reporter access to the transcript on the basis of section 14(1) of the Act. In that order, I made certain findings which will assist me in my determination of the present appeal.

## DISCUSSION:

### PERSONAL INFORMATION

In Order M-608, I found that the transcript contained only the personal information of the former Chief. I concur with that finding in the present appeal. The record refers to the former Chief's perception of his job responsibilities and requirements. The record indicates that the appellant in this appeal simply responded to the statements made by the former Chief and did not provide his own opinion as to the former Chief's employment situation. I find, therefore, that the record contains only the personal information of the former Chief and not that of the appellant, within the meaning of section 2(1) of the Act.

### INVASION OF PRIVACY

Once it has been determined that a record contains personal information, 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 it "...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 constitute an unjustified invasion of personal privacy. Where one of the presumptions found in section 14(3) applies to the personal information found in a record, the only way such a presumption can be overcome is if the personal information at issue falls under section 14(4) of the Act or where a finding is made that section 16 of the Act applies to the personal information.

If none of the presumptions contained in section 14(3) apply, the Police must consider the application of the factors listed in section 14(2), as well as all other considerations that are relevant in the circumstances of the case.

The Police submit that the personal information contained in the record is "highly sensitive" within the meaning of section 14(2)(f) and that its disclosure may unfairly damage the reputation of the individual referred to in the record, as provided by section 14(2)(i).

In Order M-608, I found that both of these factors, which favour privacy protection, were applicable in the circumstances of that appeal. Again, I find that these considerations, weighing against the disclosure of the information contained in the transcript, apply. The appellant has not made any submissions on the application of any factors which may favour the disclosure of the information contained in the record.

In the absence of any submissions from the appellant, I find that the disclosure of the personal information contained in the transcript would result in an unjustified invasion of the personal privacy of the former Chief. The information is, therefore, exempt from disclosure under section 14(1) of the Act.

**ORDER:**

I uphold the decision of the Police to deny access to the record.

Original signed by: \_\_\_\_\_  
Donald Hale  
Inquiry Officer

\_\_\_\_\_  
June 18, 1996