



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

# **ORDER M-943**

**Appeal M\_9700044**

**London Police Services Board**



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## **NATURE OF THE APPEAL:**

The appellant represents a company that installs alarm systems. He submitted a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) to the London Police Services Board (the Police) for a list of all alarm companies registered with the Police.

The Police located a 49 page list which contains information regarding the number assigned to a company, its name, address, telephone and facsimile numbers, contact person, and company type. The Police denied access to the record in its entirety on the basis of the following exemptions under the Act:

- law enforcement - section 8(1)(a)
- security - section 8(1)(i)
- facilitate commission of unlawful act - section 8(1)(l)
- third party information - section 10(1).

The appellant appealed this decision. During mediation, the Police reconsidered its decision in part, and agreed to release the names of the alarm companies to the appellant. The appellant, however, indicated that he was also seeking access to the business addresses of these companies.

This office provided a Notice of Inquiry to the Police and the appellant. Representations were received from both parties. The sole portion of the record at issue is the business addresses of the alarm companies included in the 49-page list.

## **DISCUSSION:**

### **THIRD PARTY INFORMATION**

For a record to qualify for exemption under sections 10(1)(a), (b) or (c) the party resisting disclosure, in this case the Police, must satisfy each part of the following three-part test:

1. the record must reveal information that is a trade secret or scientific, technical, commercial, financial or labour relations information; **and**
2. the information must have been supplied to the Police in confidence, either implicitly or explicitly; **and**
3. the prospect of disclosure of the record must give rise to a reasonable expectation that one of the harms specified in (a), (b) or (c) of section 10(1) will occur.

The Police indicate that, before they are permitted to register their alarm customers, alarm companies are required to provide their names and addresses to the Police in accordance with section 6.2 of the False Alarm Reduction Program of the Police. The Police indicate further that they require this information in order to correspond with the alarm companies. The Police

submit that this information is provided in confidence and has always been treated confidentially by the Police. The Police contend that disclosure of this information would result in exposure of the alarm companies to unwanted commercial and/or personal contact.

### **Type of Information**

In Order P-373, former Assistant Commissioner Tom Mitchinson considered whether the names and addresses of employers fall within the types of information referred to in the first part of the test. He concluded as follows:

Records 4 and 5 contain only the names and addresses of the employers who have been assessed the highest penalties under the WORKWELL and SECTION 91(7) programs. These records do not contain the amounts of surcharge, payroll, or the nature and volume of accidents; nor would disclosure of the names and addresses reveal this information. In my view, disclosure of Records 4 and 5 would not permit the drawing of accurate inferences as to any information supplied to the Board on the aforementioned forms, with the exception of the names and addresses of the listed employers.

Disclosure of Records 4 and 5 would reveal that the employers on the list were the subject of levies or fines under the WCA in 1990. In addition, because the list is arranged in descending order based on the amount of penalty, disclosure would also reveal the rank of an employer relative to others on the list with respect to amounts of surcharges for 1990. However, in my view, it is not accurate to characterize the names and addresses contained in Records 4 and 5 as commercial, financial or labour relations information, or a trade secret, as those terms are used in section 17(1) of the Act.

This decision was overturned by the Divisional Court in Ontario (Workers' Compensation Board) v Ontario (Assistant Information and Privacy Commissioner) (1995) 23 O.R. (3d) 31. In concluding that the former Assistant Commissioner had patently erred in his findings (referred to above), the Court stated (at page 38):

... The lists are arranged in descending order based on the amount of penalty and disclosed the rank of an employer relative to others with respect to amount of surcharges for 1990. While this does not disclose the monetary details of the information supplied to the Board, it is based entirely on such information and it does disclose information that has a direct commercial, financial and labour relations effect.

In my view, the circumstances of this appeal are quite different from those described above. In this case, alarm companies are required to provide this information to the Police prior to registering their customers. Although this information identifies that the alarm companies carry on business at a specified location, the addresses reveal nothing else about the nature or extent of their business. I am mindful of the fact that the Police have disclosed to the appellant the names of the alarm companies. However, even in conjunction with the names,

the addresses reveal nothing else about the companies. In my view, the addresses of the alarm companies do not pertain to the buying and selling of goods and services. Nor, in fact, do they pertain to any of the types of information referred to in section 10(1) of the Act. In my view, this information is neither based on commercial, financial or other details supplied to the Police. Nor would disclosure of the information have, or reveal, a direct commercial, financial or other effect.

Therefore, I find that the first part of the test for exemption under section 10(1) has not been established with respect to the addresses found in the record. As all three parts of the test have not been met for this information, it is not exempt under section 10(1).

### **LAW ENFORCEMENT EXEMPTIONS**

The Police claim that the addresses are exempt pursuant to section 8(1)(a) of the Act. The Police contend that the exemptions in sections 8(1)(i) and (l) are also applicable in this case. These sections read:

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

- (a) interfere with a law enforcement matter;
- (i) endanger the security of a building or the security of a vehicle carrying items, or of a system or procedure established for the protection of items, for which protection is reasonably required;
- (l) facilitate the commission of an unlawful act or hamper the control of crime.

I will begin with section 8(1)(a).

### **Law Enforcement**

In order for section 8(1)(a) to apply, the information must first satisfy the definition of “law enforcement” set out in section 2(1) of the Act as follows:

“law enforcement” means,

- (a) policing,
- (b) investigations or inspections that lead or could lead to proceedings in a court or tribunal if a penalty or sanction could be imposed in those proceedings, and
- (c) the conduct of proceedings referred to in clause (b).

The purpose of the exemption contained in section 8(1)(a) of the Act is to provide the Police with the discretion to preclude access to records in circumstances where disclosure of the records could reasonably be expected to interfere with an ongoing law enforcement matter. The Police bear the onus of providing evidence to substantiate that, first, a law enforcement matter is ongoing and second, that disclosure of the records could reasonably be expected to interfere with the matter.

The Police refer to their mandate under the Police Services Act to preserve the peace, prevent crimes and other offences, assist victims of crime, apprehend criminals and other offenders, etc. They submit that the record at issue is directly related to this mandate as it is incumbent upon the Police to respond to alarms. Further, the Police state that disclosure of the addresses of the alarm companies would interfere with a law enforcement matter by revealing the location where alarms may be monitored. In this regard, the Police submit that telephone lines, used to transmit alarm data, could be rendered inoperable by the "criminal element".

In my view, the general requirement of the Police to respond to activated alarms can not be equated to an "ongoing law enforcement matter". Accordingly, I am not persuaded that disclosure of the addresses would interfere with a law enforcement matter.

### **Security/Facilitate the Commission of an Unlawful Act**

The Police submit that, based on the concerns identified in the discussion under section 8(1)(a), disclosure of the addresses would endanger the security of the premises where the alarms are monitored as well as the security of the personnel employed there, and could facilitate the commission of a crime. The Police do not elaborate on these assertions.

Sections 8(1)(i) and (l) require that there exist a reasonable expectation of harm. Based on the representations of the Police, I am not persuaded that disclosure of the addresses of the alarm companies could reasonably be expected to result in either of the harms enumerated in either section. As a result, the addresses are not exempt from disclosure.

### **ORDER:**

1. I order the Police to disclose the addresses of the alarm companies to the appellant by providing him with a copy of this information no later than **June 18, 1997**.
2. In order to verify compliance with the provisions of this order, I reserve the right to require the Police to provide me with a copy of the records which are disclosed to the appellant pursuant to Provision 1.

Original signed by: \_\_\_\_\_  
Laurel Cropley

\_\_\_\_\_ May 29, 1997

Inquiry Officer