



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

# **ORDER M-937**

**Appeal M\_9700029**

**Metropolitan Toronto Police Services Board**



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## **NATURE OF THE APPEAL:**

The Metropolitan Toronto Police Services Board (the Police) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to all information relating to the requester's arrest which occurred on a specified date. The requester specifically identified some of the records which he was seeking, including a copy of his fingerprints and photographs.

The Police issued a decision in which they granted partial access to the records they identified as responsive to the request. The Police denied access to the remaining responsive portions of the records pursuant to several exemptions under the Act. The Police also advised the requester that inquiries concerning photo images should be directed to two named individuals of the Photo Section.

With respect to the requester's fingerprints, the Police indicated that the requester must attend at the Forensic Identification Services in person to verify his identity prior to receiving a copy of these records. The Police provided the requester with the name of the individual to be contacted in this regard.

The requester (now the appellant) appealed this decision.

During the mediation stage of the appeal, the Police released a photocopy of the appellant's photo image. The appellant, on the other hand, confirmed that the only records that he is still seeking are copies of his fingerprints. The right of the appellant to obtain access to these records is not at issue in this appeal. The Police agreed to provide the appellant with full access to the records. They maintained, however, that the appellant must first attend at the Forensic Identification Services, in order to verify his identity.

This office provided a Notice of Inquiry to the appellant and the Police. Representations were received from the Police only.

## **DISCUSSION:**

The sole issue to be determined in this appeal is whether personal attendance and verification of the identity of the appellant, prior to the release of his fingerprints, are reasonable requirements imposed by the Police.

Section 36(1) of the Act states as follows:

Every individual has a right of access to,

- (a) any personal information about the individual contained in a personal information bank in the custody or under the control of an institution; and
- (b) any other personal information about the individual in the custody or under the control of an institution with respect to

which the individual is able to provide sufficiently specific information to render it reasonably retrievable by the institution.

Section 2(3) of Regulation 823 made under the Act states that:

A head shall verify the identity of a person seeking access to his or her own personal information before giving the person access to it.

In Order 29, former Commissioner Sidney B. Linden dealt with an institution's responsibility in this regard. In that order he commented:

By its very nature a request for access to personal information places a high level of responsibility on the institution. In order to protect the privacy of the individual to whom the information relates, the institution must take steps to ensure, as best it reasonably can, that the requester is indeed the person whom he or she purports to be. The institution must then provide access to the personal information in a manner that is not unnecessarily restrictive.

In the same order, he went on to state that:

One of the most reliable ways to verify the identity of a requester is to require his or her personal attendance and the presentation of some document of identification. My concern with this method is that it may be an overly restrictive requirement that would place barriers on an individual's right to access. Further, there are many individuals who do not possess photo identification and/or identification with a signature. For these reasons, personal attendance should not be the standard form of verification used by an institution.

There may be cases where an institution is highly suspicious of the requester's identity or where discrepancies have arisen while verifying identity through other means. In these situations, I feel that an institution must take whatever reasonable steps it believes will satisfy itself as to the identity of the requester. This is especially true where the record in question contains particularly sensitive information. In such a situation, a requirement of personal attendance may very well be the **only** reasonable way to verify identification.

I agree with this reasoning and adopt it for the purposes of this appeal.

In their representations, the Police outline the steps they took in order to verify the appellant's identity at the time of his request. This included a comparison of his name, address, telephone number, date of birth and the signature on the arrest form with that in his request letter. The Police confirmed that, following the verification checks noted above, they had provided the appellant with some of his personal information relating to his arrest.

The Police submit, however, that when it comes to fingerprints, they must undertake a further step in ascertaining the identity of the requester. They explain that from a law enforcement perspective, fingerprints are among the most sensitive and telling of personal information and

that Canada's criminal record keeping system is based upon the taking of fingerprints. Accordingly, it is the policy of the Police to require individuals to personally attend at the Forensic Identification Services and provide another set of fingerprints in order to verify their identity before receiving access to such records.

To support their position, the Police explain that every year, several hundred individuals arrested by the Police are ultimately identified as someone other than whom they have purported themselves to be. Since fingerprint analysis is a highly specialized segment of law enforcement, police employees working in any capacity other than Forensic Identification may also be duped by these individuals. For this reason, no method of identity verification is acceptable to Forensic Identification Services except through fingerprint analysis and comparison.

I have carefully reviewed all of the representations submitted by the Police and have reached the following conclusions.

I agree that fingerprints are unique and sensitive records and that the Police must take appropriate steps in order to verify a requester's identity before releasing such information. Furthermore, I accept that fingerprint analysis is a highly specialized area that requires the expertise of trained individuals. In my view, however, the submissions provided by the Police are very general and do not refer specifically to the circumstances of this appeal.

In this regard, it is difficult to understand why such an analysis is required in this case. Given that the Police were able to ascertain the appellant's identity, and were apparently satisfied that he was who he claimed to be prior to releasing some of his personal information, it is not clear why the Police cannot be certain that the fingerprints they have on file for the appellant belong to him. The Police have not provided me with any evidence to show that there is a possibility that the fingerprints which exist with the Police may not be those of the appellant, or that there is some suspicion as to the appellant's identity, or that any discrepancies have arisen while verifying the appellant's identity through the manner referred to above. Accordingly, I am unable to conclude that fingerprint analysis and comparison is necessary in this case.

I have carefully reviewed the steps taken by the Police in order to verify the appellant's identity at the time of his request and I find them to be reasonable and appropriate given the nature of the information requested. As I indicated above, the Police satisfied themselves as to the identity of the appellant before releasing other records containing his personal information to him. In the circumstances of this appeal, I find that it is not necessary for them to undertake any further verifications before releasing a copy of his fingerprints to him.

## **ORDER:**

1. I order the Police to send a copy of the appellant's fingerprints to the appellant by **May 28, 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  
Inquiry Officer

\_\_\_\_\_ May 13, 1997