



**Information and Privacy
Commissioner/Ontario**

**Commissaire à l'information
et à la protection de la vie privée/Ontario**

ORDER MO-2134

Appeal MA-060120-1

City of Toronto



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NATURE OF THE APPEAL:

The City of Toronto (the City) received a request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for access to:

- a copy of the Fire Department Incident Report of the Toronto Fire Services which responded to a 911 call as a result of a specified incident;
- copies of any notes and/or memoranda that were prepared as a result of the Toronto Fire Services response to this incident.

The City located one responsive record, the Emergency Incident Report, and granted partial access to it. Access to portions of the Report was denied on the basis that the withheld information was exempt from disclosure under the mandatory exemption found in section 14(1) of the *Act* (personal privacy). The City was unable to locate copies of any notes and/or memoranda that were prepared as a result of the Toronto Fire Services response to this incident.

The requester (now the appellant) appealed the City's decision.

During the course of mediation, the appellant's representative clarified that he wished to pursue access to the information that was withheld from the responsive record. The City is maintaining their reliance on section 14(1) of the *Act* to withhold information from the responsive record.

Further mediation was not possible and the file was moved to the adjudication stage of the appeal process. I sent a Notice of Inquiry to the City, outlining the background and issues, and invited the City to provide representations, which it did. I then sent the Notice of Inquiry and a complete copy of the City's representations to the appellant's representative and invited his representations, which he provided in response.

RECORD:

The record at issue in this appeal consists of the information withheld from the four-page Emergency Incident Report. Specifically, only the employee numbers of the firefighters at pages 2, 3, and 4 of the record remain at issue in this appeal.

DISCUSSION:

PERSONAL INFORMATION

In order to determine which sections of the *Act* may apply, it is necessary to decide whether the record contains "personal information" and, if so, to whom it relates. That term is defined in section 2(1) as follows:

"personal information" means recorded information about an identifiable individual, including,

- (a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual,
- (b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,
- (c) any identifying number, symbol or other particular assigned to the individual,
- (d) the address, telephone number, fingerprints or blood type of the individual,
- (e) the personal opinions or views of the individual except if they relate to another individual,
- (f) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence,
- (g) the views or opinions of another individual about the individual, and
- (h) the individual's name where it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual;

The list of examples of personal information under section 2(1) is not exhaustive. Therefore, information that does not fall under paragraphs (a) to (h) may still qualify as personal information [Order 11].

To qualify as personal information, the information must be about the individual in a personal capacity. As a general rule, information associated with an individual in a professional, official or business capacity will not be considered to be "about" the individual [Orders P-257, P-427, P-1412, P-1621, R-980015, MO-1550-F, PO-2225].

Even if information relates to an individual in a professional, official or business capacity, it may still qualify as personal information if the information reveals something of a personal nature about the individual [Orders P-1409, R-980015, PO-2225].

To qualify as personal information, it must be reasonable to expect that an individual may be identified if the information is disclosed [Order PO-1880, upheld on judicial review in *Ontario (Attorney General) v. Pascoe*, [2002] O.J. No. 4300 (C.A.)].

Representations of the Parties

The City submits that the employee numbers are kept confidential and are not available to the general public and represent the personal information of individuals other than the appellant. The City relies on paragraph (c) of the definition of that term in section 2(1). In particular, the City submits:

The information at issue are the unique identifying employee numbers assigned to the firefighters and used as one of the personal identifiers to link to their human resources records, including their payroll and attendance, employment history and benefits information, WSIB and employee health, labour relations and grievance files. These numbers are also the firefighters' individual computer log-on passwords for access to the data base to populate the Fire Incident Reports as described above.

The appellant does not address this issue in his representations.

Analysis/Findings

I recognize that the information in the record was recorded in the course of the execution of the firefighters' professional, rather than their personal, responsibilities. However, I find that disclosure of the information remaining at issue in the record, particularly when taken with the firefighters' names (which have already been disclosed to the appellant) reveal something of a personal nature about the firefighters. I find that the undisclosed information represents an identifying number that has been assigned to each firefighter, who is also identified in the record by name. I also note that the number provides a link to other personal information of each firefighter, *i.e.*, the information in their human resources file described by the City. Accordingly, I find that the employee numbers qualify as the firefighters' personal information within the meaning of paragraph (c) of the definition.

PERSONAL PRIVACY

Where an appellant seeks the personal information of another individual, section 14(1) of the *Act* prohibits an institution from releasing this information unless one of the exceptions in paragraphs (a) through (f) of section 14(1) applies. In this case, the only applicable exception to the mandatory exemption in section 14 is section 14(1)(f), which reads:

A head shall refuse to disclose personal information to any person other than the individual to whom the information relates except,

if the disclosure does not constitute an unjustified invasion of personal privacy.

In applying section 14(1)(f), the factors and presumptions in sections 14(2), (3) and (4) of the *Act* provide guidance in determining whether disclosure of personal information would result in an unjustified invasion of the personal privacy of the individual to whom the information relates.

In particular, section 14(2) lists various factors that may be relevant in determining whether disclosure of personal information would constitute an unjustified invasion of personal privacy [Order P-239]. The list of factors under section 14(2) is not exhaustive. The institution must also consider any circumstances that are relevant, even if they are not listed under section 14(2) [Order P-99].

Sections 14(2) states:

A head, in determining whether a disclosure of personal information constitutes an unjustified invasion of personal privacy, shall consider all the relevant circumstances, including whether,

- (a) the disclosure is desirable for the purpose of subjecting the activities of the institution to public scrutiny;
- (b) access to the personal information may promote public health and safety;
- (c) access to the personal information will promote informed choice in the purchase of goods and services;
- (d) the personal information is relevant to a fair determination of rights affecting the person who made the request;
- (e) the individual to whom the information relates will be exposed unfairly to pecuniary or other harm;
- (f) the personal information is highly sensitive;
- (g) the personal information is unlikely to be accurate or reliable;
- (h) the personal information has been supplied by the individual to whom the information relates in confidence; and

- (i) the disclosure may unfairly damage the reputation of any person referred to in the record.

The appellant in his representations states that he is requesting the employee numbers and ought to be entitled to them because the firefighters are public employees, employed by the taxpayers of the City of Toronto. The appellant, therefore, appears to be only raising the factor which weighs in favour of disclosure of the employee numbers in section 14(2)(a).

Although the appellant appears to be relying on the factor in 14(2)(a) in seeking the firefighters' personal information, he has not provided me with representations as to why "disclosure is desirable for the purpose of subjecting the activities of the institution to public scrutiny" as is required by that section. Upon review of the representations of both parties, I cannot find a connection between the disclosure of the employee numbers and the subjecting of the activities of the City to public scrutiny.

In order for me to order disclosure of the personal information in the record I must find that disclosure of the personal information would not constitute an unjustified invasion of the firefighters' and other identifiable individuals' personal privacy.

The City in its representations submits that disclosure of the personal information in the record would constitute an unjustified invasion of personal privacy. The City states:

...the employee numbers are also the firefighters' log-on passwords to the fire incident report data base. Therefore, these numbers can be used to access highly confidential and sensitive personal/personal health information of not only the firefighters themselves but also that of other named individuals, including homeowners, victims and witnesses found in the Fire Incident Reports database. The City has an obligation to protect this personal information from unauthorized access as required by the privacy provisions under part II of the *Act* and its regulations.

Furthermore, the City has described the record, which is a Fire Incident Report, as follows:

Fire Services has a data system whereby firefighters, who attend a particular incident, log on and record information relevant to the incident (i.e., populate a report template), thereby creating the Fire Incident Report(s) for that particular call out. These reports contain the detailed information about the fire including location, owner's name and address, witness names and addresses, possible cause(s), conditions and observations upon arrival, initial actions, entry methods, security of property, any injuries to firefighters or other individuals etc.

If the employee numbers, which are also the firefighters' log-on passwords to the fire incident report database, were to be disclosed, the City would have to find a way to stop any unauthorized

access to the database to prevent the unjustified invasion of the personal privacy of a large number of individuals or face the possibility of privacy complaints and/or lawsuits. In my view, this is a circumstance that strongly supports privacy protection.

In the absence of any relevant factors in favour of disclosure of the employee numbers, I conclude that disclosure of the remaining personal information in the record would constitute an unjustified invasion of personal privacy of the firefighters and other identifiable individuals under section 14(1). These numbers could be used to access highly sensitive and confidential personal information. As the requirements of the exception in section 14(1)(f) have not been established, I find that the undisclosed personal information is exempt under section 14(1) and there is no need for me to address whether the presumptions against disclosure in section 14(3) of the *Act* apply.

ORDER:

I uphold the City's decision.

Original signed by: _____
Diane Smith
Adjudicator

December 19, 2006 _____