



F09-14-MS Accident Witness Consents to Release of Identity

A fire department received an access request as a result of its quick response to a motor vehicle accident. By the time the police arrived later, some key witnesses and one of the drivers had vanished.

On receiving the other driver's request for the names and personal contact information of all those who had witnessed or been involved in the accident, the fire department withheld that information under section 22(1) of FIPPA. Section 22(1) is a mandatory exception that requires a public body to refuse to disclose personal information where its disclosure would be an unreasonable invasion of a third party's personal privacy.

Section 22(4) lists categories of information that can be disclosed without causing an unreasonable invasion of third parties' privacy. For example, section 22(4)(a) states that a disclosure of personal information is not an unreasonable invasion of a third party's privacy if the third party has consented to or requested the disclosure. Public bodies do not usually go out of their way to see if consent for disclosure is forthcoming. In this case, we suggested that the fire department take that step. It contacted the third parties and, on obtaining consent from one of them, disclosed his identity and contact information to the applicant. Since the other third parties did not provide their consent, the public body correctly maintained that it was obligated to withhold their personal information.

The public body also took the position that disclosing third parties' personal information would violate section 22(3)(b), which provides that it is presumed to be an unreasonable invasion of a third party's personal privacy if "the personal information was compiled and is identifiable as part of an investigation into a possible violation of law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation".

While it was not clear to us that the public body in this case had compiled the personal information further to an investigation into a possible violation of law, section 22(1) of FIPPA can apply in the absence of any of the presumed unreasonable invasions of privacy outlined in section 22(3). In our opinion, the public body was required to withhold the remaining personal information.

Satisfied with the additional release of information resulting from our involvement and with our opinion that the remaining information was appropriately withheld, the applicant decided not to request an inquiry.