



Commissaire à l'information
du Canada Information
Commissioner
of Canada

Gatineau, Canada
K1A 1H3

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Subject: **Our file:** 3214-00952
 Institution's file: A-2014-05797
 Your file: ATI #161661

Dear Mr. 

I am writing to report to you the results of my office's investigation of your complaint, made under the *Access to Information Act* (the Act), against the Royal Canadian Mounted Police (RCMP).

Background

On August 15, 2014, the RCMP received your request for:

"I would like a complete ELECTRONIC copy of the Firearms Reference Tables"

On September 08, 2014, the RCMP responded to your request, withholding the entire Firearms Reference Tables (FRT) under subsections 18(a) and 18(b) of the Act. On September 16, 2014, you complained to my office about the RCMP's response.

Investigation

First, let me apologize for the amount of time it has taken to complete the investigation of your complaint. Your patience and cooperation throughout have been greatly appreciated.

Respect

Excellence

Intégrité Integrity

Leadership

At the outset of the investigation, my office sought from the RCMP an unredacted copy of the RCMP's Firearms Reference Tables (FRT). This FRT is a computer database of compiled open source information which offers comprehensive firearm descriptions and classifications. This includes information about the make, model and manufacturer of a large variety of firearms, along with descriptions, pictures and, in some instances, serial numbers associated with those weapons.

Upon reviewing the responsive records, the RCMP was asked to provide additional representations pursuant to paragraph 35(2)(b) of the Act to better understand the reasons behind their decision to exempt the responsive records from disclosure.

In response, RCMP officials indicated that they were no longer relying on the exemptions under subsections 18(a) and (b) of the Act as a basis for refusing disclosure. Instead, the RCMP now claims that the FRT would have to be reviewed in its entirety as serial numbers of firearms will have to be withheld under subsection 19(1) of the Act as they constitutes personal information.

Having carefully considered all the representations provided by the RCMP, as well as other evidence before me, I am not satisfied that the RCMP has met its burden of demonstrating that it is justified in refusing to disclose information responsive to your access to information request based on subsection 19(1).

Subsection 19(1)

Subsection 19(1) of the Act requires the head of an institution to refuse to disclose "personal information" as defined in section 3 of the *Privacy Act*, except in situations described in subsection 19(2) of the Act. The opening words of section 3 of the *Privacy Act* define "personal information" as "information about an identifiable individual that is recorded in any form" (emphasis mine).¹ These opening words are followed by a list of examples of what constitutes "personal information", followed by a list of examples of what cannot fall within the scope of this term.

In the present instance, the RCMP maintains that the serial number of a firearm is information "about an identifiable individual" or "identifiable individuals" and, more specifically, that this information falls within the example of personal information set out in paragraph 3(c) of the *Privacy Act*. This provision specifies that "personal information" includes "any identifying number, symbol or other particular assigned to the individual".

Having considered the RCMP's representations, I do not agree. A firearm's serial number constitutes information "about" a firearm that is "assigned to" the firearm itself; it is not information "about" an "identifiable individual" or information

¹ These opening words are followed by a list of examples of what constitutes "personal information" and a list of exceptions of what cannot be considered "personal information" for the purpose of subsection 19(1).

“assigned to” an individual so as to fall within the scope of subsection 19(1). This conclusion is supported by the decision in *Canada (Information Commissioner) v. Canada (Canadian Transportation Accident Investigation and Safety Board)*, 2006 FCA 157, where the Federal Court of Appeal concluded that air traffic communications, although capable of being linked to an identifiable individual(s) is not information “about” an identifiable individual(s).

It is also supported by the decision in *Leon’s Furniture Ltd. v. Alberta (Information and Privacy Commissioner)*, 2011 ABCA 94, paras 48-50),² where Alberta’s Court of Appeal concluded that licence plate numbers did not constitute “personal information” under that province’s freedom of information statute because these numbers relate to objects (i.e. vehicles), as opposed to individuals.

Conclusion and Next Steps

I remained dissatisfied with the representations received through the investigation, and ultimately concluded that the complaint is well founded. Pursuant to subsection 37.1 of the Act, I recommended to the Minister of Public Safety and Emergency Preparedness, in his capacity of head of the RCMP under the Act, to disclose the serial numbers contained in the records.

The Minister responded that it has been decided not to adopt my recommendation and continue applying subsection 19(1) of the Act to portions of the records.

Having now received the report of my investigation, section 41 of the Act provides that you may apply to the Federal Court for a review of the Minister’s decision to deny you access to portions of records requested by you under the Act. Also, pursuant to paragraph 42(1)(a) of the Act, I may apply to the Federal Court for a review of this refusal of access, with your consent.

In the present instance, I am prepared to bring an application for a review of the Minister’s refusal to disclose the serial numbers contained in the records requested by you under the Act. If you are in agreement, my office requires a written consent from you to proceed. I have attached a proposed consent form. If you agree with its content, please return a signed copy promptly, as the Act requires that an application be commenced within 45 days of my reporting the results of the findings of this investigation to you.

You are, of course, under no obligation to provide such a consent. If you choose not to consent, please note that any application you may decide to initiate pursuant to section 41 of the Act should name as the Respondent the Minister of Public Safety

² The Supreme Court of Canada denied leave to appeal in this case, file 34279, November 24, 2011

and Emergency Preparedness, who is the head of the RCMP for the purpose of the Act. Such an Application must also be filed with the Court within 45 days of my reporting the results of this investigation to you.

Should you wish to discuss any aspect of this matter, please do not hesitate to communicate with Sandra George, Director of Investigations at (819) 994-1801.

Yours sincerely,



Caroline Maynard
Information Commissioner

c.c.: Access to Information and Privacy Coordinator
Royal Canadian Mounted Police

Encl. Consent form under paragraph 42(1)(a) of the Act