



Information and Privacy  
Commissioner/Ontario

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

News Release

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## **Privacy Commissioner Ann Cavoukian issues seminal Order to cease collecting detailed personal information from individuals selling used goods, and to destroy all existing records**

Ontario Information and Privacy Commissioner Ann Cavoukian – invoking for the first time a cease collection and destroy records provision in Ontario privacy laws – today ordered the City of Ottawa and the Ottawa Police to stop collecting extensive personal information from individuals selling used goods to second-hand stores. She also ordered the destruction of all personal information already collected.

Her cease and desist Order follows an investigation into a privacy complaint the Commissioner received in the wake of the Court of Appeal ruling in the *Cash Converters* case in July. That ruling struck down portions of a City of Oshawa bylaw that had required used-goods retailers to collect extensive personal information from all customers seeking to sell second-hand goods. Key sections of the Ottawa bylaw are similar to those of the Oshawa bylaw that was recently struck down by the Court.

“I have decided to issue this Order because of the compelling privacy issues at stake in this case, as well as the clear direction provided by the Court of Appeal for Ontario in *Cash Converters*,” said the Commissioner.

In her Order, the Commissioner cites representations made to her by the Ottawa Police regarding Business Watch International (BWI), a Regina-based company that developed software that used goods stores can use to send detailed personal information of sellers directly to BWI. The company maintains a large electronic database on behalf of the Ottawa Police that includes more than a quarter-of-a-million used good transactions, involving more than 44,000 identifiable individuals.

“In my view,” said Commissioner Cavoukian, “the creation and maintenance of this database constitutes a grave infringement to the privacy rights of individuals. The police are not required to obtain a warrant or demonstrate any suspicion of wrongdoing, in order to access this database, while every individual who sells an item to a second-hand goods store may become subject to scrutiny by the police, even though it is clear that the vast majority are innocent, law-abiding citizens who have committed no offence.”

“This matter cannot be taken lightly. The routine collection of personally identifiable information from those who have committed no offence goes beyond the constitutional compromise that permits intrusive action by the police in the context of criminal law



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investigations. In the interests of liberty, we must draw the line at the potential surveillance of law-abiding citizens by the state and firmly say ‘No’ to any unnecessary intrusions on our privacy.”

“We are setting a standard with this Order for other municipalities that have similar bylaws,” said the Commissioner. “My office will soon be publishing a set of guidelines with respect to the regulation of used goods, in an effort to provide assistance to all municipalities and police services in the province.”

Among the steps the City of Ottawa and its police force are being ordered by the Commissioner to take are:

- The city must take the necessary legal and administrative steps to ensure that the second-hand goods stores licensed under the bylaw cease collecting personal information under sections 11, 12 and 13 of Schedule 14 of the bylaw;
- The police must take the necessary legal and administrative steps to ensure that the police and BWI, on behalf of the police, cease collecting personal information under sections 13 and 16;
- The city is also required to ensure that second-hand goods stores licensed under the bylaw destroy personal information collected under sections 11, 12 and 13, while the police are required to ensure that police and BWI destroy the personal information collected under sections 13 and 16.

The Order specifically allows second-hand goods stores to collect and retain “bare contact information” of sellers (name, address, telephone number, e-mail address) and contractual information (such as a description of the goods), where there is a legitimate business need or valid legal authority (outside the scope of the bylaw) to do so.

The *Guidelines* cited by the Commissioner, with respect to the regulation of used goods, will be released within two weeks.

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