



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

# **ORDER M-78**

**Appeal M-9200265**

**Collingwood Police Services Board**



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# ORDER

## BACKGROUND:

The Collingwood Police Services Board (the "Board") received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to a copy of a report written by the Durham Regional Police Special Investigation Unit, regarding an internal investigation of the Collingwood Police Service. The Board denied the requester access to the information pursuant to section 14(1) of the Act. The requester appealed the Board's decision.

During mediation, the Board claimed additional exemptions under sections 7(1), 8(2) and 12 of the Act. Further mediation was not possible, and notice that an inquiry was being conducted to review the Board's decision was sent to the appellant and the Board. Written representations were received from both parties.

## ISSUES:

The issues arising in this appeal are:

- A. Whether the discretionary exemptions provided by sections 8(2)(a), (b) and/or (c) of the Act apply.
- B. Whether the discretionary exemption provided by section 7(1) of the Act applies.
- C. Whether the discretionary exemption provided by section 12 of the Act applies.
- D. Whether information contained in the record qualifies as "personal information" as defined in section 2(1) of the Act.
- E. If the answer to Issue D is yes, whether the mandatory exemption provided by section 14 of the Act applies.

## SUBMISSIONS/CONCLUSIONS:

**ISSUE A: Whether the discretionary exemptions provided by sections 8(2)(a), (b) and/or (c) of the Act apply.**

The Board submits that section 8(2)(a) applies to the entire record. Section 8(2)(a) reads:

A head may refuse to disclose a record,

that is a report prepared in the course of law enforcement, inspections or investigations by an agency which has the function of enforcing and regulating compliance with a law;

As stated in Order 200, in order to qualify for exemption under section 14(2)(a) of the provincial Freedom of Information and Protection of Privacy Act, which is the equivalent to section 8(2)(a) of the municipal Act, a record must satisfy each part of the following three-part test:

1. the record must be a report; **and**
2. the report must have been prepared in the course of law enforcement, inspections or investigations; **and**
3. the report must have been prepared by an agency which has the function of enforcing and regulating compliance with a law.

In his representations, the appellant recognizes that the record is a report that was prepared in the course of law enforcement, inspections and investigations. The appellant submits that section 8(2)(a) is intended to protect an ongoing investigation from public disclosure. The appellant submits that because the investigation is over and no charges have been laid, there is no reason to believe that making the investigation public would endanger the prosecution of individuals who may have broken the law.

I have considered the record at issue in this appeal and, in my view, it meets all three parts of the test. The record qualifies as a report as it summarizes the investigation, makes findings of fact and draws conclusions. Further, the record was prepared in the course of law enforcement, investigations or inspections pursuant to the Police Services Act, and with a purpose to determine if grounds existed for criminal charges to be laid. Finally, the record was compiled and prepared by the Special Investigations Unit of the Durham Regional Police, an agency which has the function of enforcing and regulating compliance with the law. Section 8(2)(a) does not require that a report meet additional criteria such as a reasonable expectation of some harm resulting from the disclosure of the report or specifications about the contents thereof. Accordingly, I find that the record qualifies for exemption pursuant to section 8(2)(a) of the Act.

Section 8 of the Act is a discretionary exemption. In reviewing the Board's exercise of discretion in favour of refusing to disclose the record, I have found nothing to indicate that the exercise of discretion was improper, and would not alter it on appeal.

Since I have found that the section 8(2)(a) exemption applies, it is not necessary for me to consider Issues B, C, D or E.

**ORDER:**

I uphold the Board's decision.

Original signed by: \_\_\_\_\_  
Holly Big Canoe  
Inquiry Officer

\_\_\_\_\_ January 22, 1993