



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

ORDER M-79

Appeal M-910306

Thunder Bay Police Services Board



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ORDER

BACKGROUND:

The Thunder Bay Police Services Board (the Police) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to information related to an investigation of an assault allegation arising from an incident which occurred in November 1987. The requester is the son of the individual who is alleged to have been assaulted by employees of a hospital, while she was a patient there. The requester provided the Police with a document signed by his mother indicating that she consented to his acting on her behalf.

The Police advised the requester that certain parts of the request had been transferred to the Ministry of the Attorney General, that partial access was provided to portions of the record in its custody or control, and that access was denied to other portions of the record, pursuant to sections 8 and 14 of the Act.

The requester appealed the decision of the Police to deny access.

The Police compiled the responsive records in a package numbered from pages 1-49. During the processing of this appeal, the Police withdrew the exemption it claimed under section 8 of the Act, and disclosed the records to the appellant, some in their entirety, and others with severances made pursuant to section 14 of the Act.

The appellant continued to seek access to the severed information and also maintains that one additional responsive record had not been disclosed to him. He stated that he was not provided with the original report of the alleged incident, prepared by a named police officer.

The Police took the position that this report does not exist. The appeal could not be completely resolved by mediation. Accordingly, notice that an inquiry was being conducted to review the Police's decision was sent to the appellant and the Police. Representations were received from both parties.

In its representations, the Police stated that some of the information that was severed from the records does not relate to the appellant's request. I have reviewed these severances. They are police officers' notes relating to other investigations. These severances are on page 21 (the single line severance in the middle of the page) and on pages 24 and 25 (all of the deletions on these pages). I find that these severances are not responsive to the request and therefore, they fall outside the scope of this appeal.

The severances which remain at issue in this appeal are located on pages 3, 4, 15, 21, 22, 33-39 and 44. The Police claims section 14 for all of the severances.

ISSUES:

The issues arising in this appeal are as follows:

- A. Whether the severed records contain information that qualifies as "personal information", as defined in section 2(1) of the Act.
- B. If the answer to Issue A is yes, whether the information in the severed records qualifies for exemption pursuant to the mandatory exemption provided by section 14 of the Act.
- C. Whether the Police conducted a reasonable search for additional records responsive to the request.

SUBMISSIONS/CONCLUSIONS:

ISSUE A: Whether the severed records contain information that qualifies as "personal information", as defined in section 2(1) of the Act.

The introductory words of section 2(1) of the Act state, in part:

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

...

I have examined the records at issue. Pages 3 and 4 are portions of a supplementary occurrence report, prepared by a police officer. Pages 21, and 22 are excerpts from the police officer's note book. The information severed from these pages consists of names of hospital personnel who attended to the appellant's mother during the time of the alleged incident. Pages 33-39 and 44 are portions of medical records such as charts and progress reports of the appellant's mother. The information severed from these pages consists of the names or signatures of the various hospital personnel who cared for her during the relevant period of time.

It has been established in a number of orders that information provided by an individual in a professional capacity or in the execution of employment responsibilities is not personal information, and therefore, cannot qualify for personal privacy protection (Orders 157, P-326, P-328).

In my view, the information severed from the records relates to the professional and/or employment responsibilities of the individuals, and therefore, does not satisfy the definition of "personal information" under section 2 of the Act.

Having answered Issue A in the negative, it is not necessary for me to deal with Issue B.

Since no other exemptions were claimed for this information, it should be disclosed to the appellant.

ISSUE C: Whether the Police conducted a reasonable search for additional records responsive to the request.

The appellant states that the supplementary report he was given access to (pages 7 and 8 of the record) indicates that the officer who prepared the report had submitted an earlier report on the same incident. The appellant believes that this report exists.

In a sworn affidavit submitted with the Police's representations, the Central Records Manager of the Police states that the officer who authored the supplementary report has confirmed that it is in fact a resubmission of his original report of the occurrence. The Records Manager explains:

[The officer] states that when he initially spoke to the complainant (appellant's mother) and found that it was not a police matter ..., no report was completed. A few months later, he advises he was asked to do a report on this incident. This report was submitted on tape and is the report which is missing. Subsequently, [the officer] was requested to submit the supplementary report (records 7 and 8).

In addition, the Records Manager provides the following background regarding the reporting procedures:

Thunder Bay Police Force are on a system whereby officers call into a designated telephone number to dictate their reports on tape. Transcribers then pull these tapes from the machine and transcribe them on to the OMPPAC computer system. There are times where officers have said they dictated a report and records were unable to locate the tape. We have from time to time experienced problems with the recording machines but we are usually aware of when this happens. There is always a chance that the report was transcribed under an incorrect number, however, this is unlikely, as all reports are approved individually and stay outstanding on an approval list until this is done.

The affidavit outlines the steps taken to locate the record in question and provides a detailed description of the searches conducted by the staff of the Police. It indicates that the police officer who submitted the taped report and the temporary Records Manager at the relevant time were interviewed. The Police computer on-line database and "hard copy" files were searched. In particular, the listing of all reports transcribed by the named officer during the relevant period of time were printed and reviewed in order to determine whether the report in question had inadvertently been typed under an incorrect incident number. The result of all of these searches was negative.

I have carefully reviewed the representations. In my view, thorough searches were conducted during the course of processing the appellant's request and appeal, and I am satisfied that the Police search for the report was reasonable in the circumstances.

ORDER:

1. I order the Police to disclose the records at issue in this appeal, with the exception of the information which I have identified as falling outside the scope of the appeal, within fifteen (15) days of the date of this order.
2. In order to verify compliance with the provisions of this Order, I order the Police to provide me with a copy of the records which are disclosed to the appellant pursuant to provision 1, **only** upon my request.

Original signed by: _____
Asfaw Seife
Inquiry Officer

_____ January 29, 1993