



**Information and Privacy
Commissioner/Ontario**

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

ORDER M-363

Appeal M-9400198

Metropolitan Toronto Police Services Board



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NATURE OF THE APPEAL:

This is an appeal under the Municipal Freedom of Information and Protection of Privacy Act (the Act). The appellant has requested copies of all her personal information in the custody and control of the Metropolitan Toronto Police Services Board (the Police). In submitting her request, the appellant included information relating to her date of birth and areas in which she has lived since 1987.

Partial access was granted to the requested information. The Police also indicated that some records (pages 1 and 2, and parts of pages 5 and 9) were not responsive to the request. These records were identified to the appellant and she indicates that she is not interested in receiving them. They are, therefore, not at issue in this appeal. The undisclosed parts of the following records are at issue:

- a supplementary report to a General Occurrence report (the identity of a suspect has been withheld on page 5)
- information contained in a Record of Arrest relating to a complaint made by the appellant (information relating to the defendant has been withheld on page 6)
- information contained in a Supplementary Record of Arrest relating to the appellant's complaint (information relating to the defendant has been withheld on page 7)
- Supplementary Record of Arrest relating to the appellant's complaint (information relating to the defendant has been withheld on page 8)
- information from the Canadian Police Information Centre (C.P.I.C.) (page 10 has been withheld in total)

The Police rely on the following exemptions in denying access to parts of these records.

- Invasion of privacy - sections 14 and 38(b)
- Relations with other governments - sections 9 and 38(a)

A Notice of Inquiry was provided to the Police and the appellant. The Police submitted representations and the appellant indicated that she would be relying on her letter of appeal as containing her representations.

DISCUSSION:

PERSONAL INFORMATION

Under section 2(1) of the Act, "personal information" is defined, in part, to mean recorded information about an identifiable individual, including any identifying number assigned to the individual and the individual's name where it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual.

I have reviewed the information at issue in the records and I find that the information contained on page 10 qualifies as the appellant's personal information only. The remaining information at issue qualifies as the personal information of the appellant and other individuals.

The Police claim that sections 9(1) and 38(a) apply to page 10 and that sections 14(1) and 38(b) apply to the remaining personal information.

INVASION OF PRIVACY

In my discussion under this section, I will only consider the personal information which qualifies as that of both the appellant and other individuals.

Section 36(1) of the Act gives individuals a general right of access to their own personal information held by a government body. Section 38 provides a number of exceptions to this general right of access.

Under section 38(b) of the Act, where a record contains the personal information of both the appellant and other individuals and the Police determine that the disclosure of the information would constitute an unjustified invasion of another individual's personal privacy, the Police have the discretion to deny the requester access to that information.

Sections 14(2), (3) and (4) of the Act provide guidance in determining whether the disclosure of personal information would constitute an unjustified invasion of personal privacy. Where one of the presumptions found in section 14(3) applies to the personal information found in a record, the only way such a presumption against disclosure can be overcome is where the personal information falls under section 14(4) or where a finding is made that section 16 of the Act applies to the personal information.

If none of the presumptions contained in section 14(3) apply, the Police must consider the application of the factors listed in section 14(2) of the Act, as well as all other considerations that are relevant in the circumstances of the case.

In their representations, the Police state that all of the information contained in the records was compiled and is identifiable as part of an investigation into a possible violation of law (s.14(3)(b)). Therefore, the Police submit that the release of personal information would represent a presumed unjustified invasion of the personal privacy of other individuals referred to in the records.

In her representations the appellant claims that she has never been involved in any criminal activities and submits that she should, therefore, have access to information regarding the types of police investigations her name is attached to. She further indicates that she is not interested in invading any other individual's personal privacy.

I have reviewed the records and the representations received and have made the following findings:

- (1) All of the information at issue in the records was compiled and is identifiable as part of an investigation into a possible violation or violations of law, and accordingly, the presumed unjustified invasion of privacy in section 14(3)(b) applies.

- (2) I find that section 14(4) does not apply to the information, and the appellant has not claimed that section 16 of the Act applies in this appeal.
- (3) I find that disclosure of the personal information which has not been disclosed would constitute an unjustified invasion of personal privacy and is properly exempt from disclosure under section 38(b) of the Act.

RELATIONS WITH OTHER GOVERNMENTS

I found above that page 10 contained the personal information of the appellant only. Under section 38(a) of the Act, the institution has the discretion to deny access to an individual's own personal information in instances where certain exemptions would otherwise apply to that information.

The Police claim that section 9(1)(d) applies to page 10 of the record. Section 9(1) states:

A head shall refuse to disclose a record if the disclosure could reasonably be expected to reveal information the institution has received in confidence from,

- (a) the Government of Canada;
- (b) the Government of Ontario or the government of a province or territory in Canada;
- (c) the government of a foreign country or state;
- (d) an agency of a government referred to in clause (a), (b) or (c); or
- (e) an international organization of states or a body of such an organization.

In Order M-128, former Inquiry Officer Asfaw Seife said with respect to information contained in C.P.I.C.:

In my view, the mere fact that the R.C.M.P. administers and maintains C.P.I.C. does not make the R.C.M.P. the source of all information that resides in the system. Only the retrieval of information originally supplied to C.P.I.C. by the R.C.M.P. can be considered to be "received" from the R.C.M.P.

I agree with the reasoning in Order M-128. In this case, the Police submit that the information contained in the computer response from C.P.I.C. was originally entered by the R.C.M.P., Immigration and Passport Branch. Based on the evidence before me, I am satisfied that the information on page 10 of the record was

received by the Police in confidence from the R.C.M.P.. Accordingly, I find that page 10 of the record qualifies for exemption under sections 38(a) and 9(1)(d) of the Act.

ORDER:

I uphold the decision of the Police.

Original signed by: _____
Laurel Cropley
Inquiry Officer

_____ July 28, 1994