



**Information and Privacy
Commissioner/Ontario**

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

ORDER M-368

Appeal M-9400085

Guelph 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 Guelph Police Services Board (the Police) received a request under the Act for access to documents generated by a police investigation of a fire which occurred in March 1992. The records remaining at issue in this appeal consist of witness statements, portions of General Occurrence Reports and of a computer-generated dispatch printout.

The Police rely on the following exemptions in denying access to these records:

- law enforcement - section 8(2)(a)
- invasion of privacy - section 14(1)

A Notice of Inquiry was provided to the Police and the appellant. Representations were received from the Police only.

DISCUSSION:

INVASION OF PRIVACY

Under section 2(1) of the Act, "personal information" is defined to mean recorded information about an identifiable individual. I have reviewed the records at issue and I find that they all contain information which satisfies the definition of "personal information". In my view, the personal information relates to individuals other than the appellant.

Once it has been determined that a record contains personal information, section 14(1) of the Act prohibits the disclosure of this information except in certain circumstances.

Sections 14(2), (3) and (4) of the Act provide guidance in determining whether disclosure of personal information would result in an unjustified invasion of personal privacy. Where one of the presumptions 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 if 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 in section 14(3) apply, the institution must consider the application of the factors listed in section 14(2), as well as all other circumstances that are relevant in the circumstances of the case.

In their representations, the Police submit that the presumptions against disclosure contained in sections 14(3)(b) (information compiled and identifiable as an investigation into a possible violation of law) and 14(3)(f) (description of an individual's finances) apply to the personal information at issue.

Having reviewed the representations of the Police and the records, I have made the following findings with respect to the information at issue:

- (1) The personal information contained in the records was compiled and is identifiable as part of an investigation into a possible violation of law, i.e. the Police investigation into the circumstances surrounding the fire and the possibility that arson, a violation of the Criminal Code, was the cause of the fire.
- (2) Accordingly, I am satisfied that the requirements to establish a presumed unjustified invasion of personal privacy under section 14(3)(b) of the Act have been established. The presumption in section 14(3)(b) only requires that there be an investigation into a **possible** violation of law. Therefore, the fact that, in this case, no criminal charges were laid does not negate the applicability of section 14(3)(b) (Order P-237).
- (3) None of this information falls within the ambit of section 14(4).
- (4) The appellant claims that the public good will be served by permitting the parties to the civil action involving the fire to have access to all the information produced as a result of the Police investigation. In my view, this consideration does not constitute a compelling public interest under section 16 of the Act which outweighs the purpose of the personal privacy exemption.
- (5) Accordingly, the exemption in section 14(1) applies and it is not necessary for me to consider the application of sections 14(3)(f) and 8(2)(a) of the Act.

ORDER:

I uphold the decision of the Police.

Original signed by: _____
Anita Fineberg
Inquiry Officer

_____ August 3, 1994