



**Information and Privacy
Commissioner/Ontario**

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

ORDER M-357

Appeal M-9300466

Peterborough Community 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 records from the Peterborough Community Police Services Board (the Police) relating to numerous occurrences affecting himself. These occurrences also involved one of the appellant's neighbours. During mediation, the appellant indicated that he is only interested in information which relates to him.

Partial access was granted to the requested information. The Police rely on the following exemptions to deny access to the responsive information in the records which was withheld from disclosure:

- invasion of privacy - section 38(b)
- facilitate commission of unlawful act - section 8(1)(l).

The records consist of:

- the responsive portions of six "Incident Details" report sheets and attached extracts from police officers' notebooks;
- the responsive portions of one "Incident Summary" report and attached extracts from a police officer's notebook.

A Notice of Inquiry was provided to the Police, the appellant and three other persons who are named in the records. Representations were received from the Police only.

DISCUSSION:

INVASION OF PRIVACY

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 in the records and I find that the undisclosed responsive portions qualify as the appellant's personal information. This information qualifies as the personal information of other individuals as well.

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 institution determines that the disclosure of the information would constitute an unjustified invasion of another individual's personal privacy, the institution has 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 institution 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.

The appellant's letter of appeal states that he needs the information for a civil law suit he is preparing to launch. This raises the possible application of section 14(2)(d).

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

- (1) All of the responsive information 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 have not been presented with sufficient evidence to substantiate the application of section 14(2)(d) and even if I had been, a presumed unjustified invasion of privacy cannot be rebutted by factors listed in section 14(2).
- (3) I find that section 14(4) does not apply to the responsive information which has not been disclosed, and the appellant has not claimed that section 16 of the Act applies in this appeal.
- (4) I find that disclosure of the responsive 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.

Because of the way I have disposed of this issue, it is not necessary for me to address the possible application of section 8(1)(l).

ORDER:

I uphold the decision of the Police.

Original signed by: _____
John Higgins
Inquiry Officer

July 21, 1994