



Information and Privacy
Commissioner/Ontario

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

ORDER P-770

Appeal P-9400234

Ministry of the Solicitor General and Correctional Services



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NATURE OF THE APPEAL:

This is an appeal under the Freedom of Information and Protection of Privacy Act (the Act). The Ministry of the Solicitor General and Correctional Services (the Ministry) received a request for access to all investigative case records, as well as the discipline file, pertaining to a named Ontario Provincial Police officer. The requester is an individual who filed a complaint against the officer.

The Ministry located a total of 50 pages of records which were responsive to the request and disclosed 20 pages of records pertaining to the requester's complaint. The Ministry refused to grant access to the remaining 30 pages of records based on the following exemptions contained in the Act:

- law enforcement - section 14(2)(a)
- invasion of privacy - section 21(1)

The requester appealed this decision to the Commissioner's office. A Notice of Inquiry was provided to the appellant and the Ministry. Representations were received from the Ministry only.

The records which remain at issue consist of 30 pages of documents concerning the investigation of two complaints against the named police officer.

DISCUSSION:

LAW ENFORCEMENT

For a record to qualify for exemption under section 14(2)(a) of the Act, the Ministry 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.

Part One of the Test

In its representations, the Ministry argues that the withheld records constitute the "systemic summary and analysis of the findings of the investigating officer assigned to investigate the complaint".

It has been held in many previous orders issued by the Commissioner's office that in order to satisfy the first
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part of the test (to be a report) a record must consist of **a formal statement or account of the results** of the collation and consideration of information. Generally speaking, results would not include mere observations or recordings of fact.

I find that the two investigation reports, along with the supporting documentation, fall within the definition of "report" for the purposes of the Act. Accordingly, the first part of the test has been satisfied.

Part Two of the Test

The investigations which resulted in the creation of the two reports were conducted pursuant to the Police Act and could have resulted in charges being laid against the subject police officer and possible sanctions to him. On this basis, I find that these records were created in the course of a "law enforcement" investigation within the meaning of section 14(2)(a) of the Act.

Accordingly, I find that part two of the test has been met.

Part Three of the Test

The investigations were undertaken by members of the Ontario Provincial Police, an agency which has the function of enforcing compliance with the law. I find, therefore, that the third part of the section 14(2)(a) test has been satisfied.

As all three parts of the test for exemption under section 14(2)(a) have been met, I find that the records are properly exempt under this section and should not be disclosed to the appellant. On this basis, it is not necessary for me to address the application of section 21(1) of the Act.

ORDER:

I uphold the decision of the Ministry.

Original signed by: _____

Donald Hale
Inquiry Officer

_____ September 27, 1994