



**Information and Privacy  
Commissioner/Ontario**

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

# **ORDER M-413**

**Appeal M-9400356**

**Hamilton-Wentworth Regional 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 Hamilton-Wentworth Regional Police Services Board (the Police) received a request for access to a copy of the statement provided by a named witness (the witness) to a motor vehicle accident along with her address and telephone number. In his letter of request, the appellant (an insurance adjuster) indicated that he represents the insurer and the named insured.

The Police denied access to the statement pursuant to section 15(a) of the Act as it is publicly available from their Accidents Clerk for a fee.

The Police rely on the following exemptions in denying access to the address and telephone number of the witness:

- law enforcement - section 8(2)(a)
- invasion of privacy - sections 14 and 38(b)
- discretion to refuse requester's own information - section 38(a).

The appellant agreed to obtain a copy of the statement from the Accidents Clerk. The only portion of the record at issue, therefore, is the address and telephone number of the witness.

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

During the inquiry stage of this appeal, the appellant indicated that he did not represent the named insured in this matter. He agreed that his request should be considered under Part I of the Act. Sections 38(a) and (b) will, therefore, not be considered in this order.

## **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 the address and telephone number of the individual.

I have reviewed the portion of the record at issue. In my view, it contains the personal information of the witness only.

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) of the Act, as well as all other circumstances that are relevant in the circumstances of the case.

In their representations, the Police indicate that the personal information contained in the record was obtained by the Police as a result of an investigation into a reported motor vehicle accident where charges were laid under the Highway Traffic Act (the HTA). The Police submit, therefore, that the presumption against disclosure contained in section 14(3)(b) of the Act (information compiled and identifiable as part of an investigation into a possible violation of law) applies to the personal information at issue.

I have reviewed the portion of the record at issue and have made the following findings:

1. The information contained in the record was compiled by the Police during their investigation of a motor vehicle accident which was directed towards determining whether there had been a possible violation of the HTA. Accordingly, I am of the view that the presumption contained in section 14(3)(b) of the Act applies to the information at issue.
2. I have considered the possible application of section 14(4) of the Act and find that none of the personal information at issue falls within the scope of this section. In addition, the appellant has not raised the application of section 16 of the Act.
3. I find that the disclosure of the personal information contained in the record at issue would constitute an unjustified invasion of the personal privacy of the witness and is, therefore, properly exempt from disclosure under section 14(1) of the Act.

Because of the manner in which I have disposed of section 14(1), it is not necessary for me to address the application of section 8(2)(a) of the Act to the portion of the record at issue.

**ORDER:**

I uphold the decision of the Police.

Original signed by: \_\_\_\_\_  
Laurel Cropley  
Inquiry Officer

\_\_\_\_\_ October 31, 1994