



**Information and Privacy
Commissioner/Ontario**

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

ORDER M-455

Appeal M-9400515

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 appeal relates to a request submitted to the Metropolitan Toronto Police Services Board (the Police) on behalf of a police officer (the appellant) by his counsel. In the request, the appellant sought access to

... copies of all minutes, notes or any documents whatsoever of the [Professional Standards Review Committee (the PSRC)] or its individual members, and all correspondence, memoranda, etc. sent to or from the PSRC or its individual members relating to its deliberations of [the appellant]'s case.

The Police granted full access to several responsive records, and denied access to parts of others on the basis of the following exemption:

- invasion of privacy - section 14(1).

The appellant, by his counsel, appealed the denial of access to the parts of the records which were withheld.

The records at issue consist of the undisclosed parts of the following documents:

- PSRC minutes of May 3, 1994
- PSRC minutes of October 20, 1992
- two "Case Review" reports prepared by the PSRC.

A Notice of Inquiry was sent to the appellant and the Police. Since the records appeared to contain the appellant's personal information, the Notice of Inquiry raised the possible application of section 38(b) of the Act. That section provides an exemption relating to unjustified invasions of personal privacy for records which contain the appellant's own personal information. In response to the Notice of Inquiry, 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 records of which parts are at issue. I find that they contain the personal information of the appellant. I also find that, with one exception, the undisclosed parts of the records consist of the personal information of individuals other than the appellant.

The exception is the undisclosed part of the PSRC minutes of May 3, 1994. This information consists of a municipal address, but no individual's identity is mentioned in connection with it. In my view, this does not

qualify as personal information. Accordingly, it is not exempt under section 14(1) or 38(b). As no other exemptions have been claimed for this information, it should be disclosed.

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.

The Police claim that the presumption in section 14(3)(b) of the Act applies to the personal information which has not been disclosed. Based upon a review of the records, it is clear that this information was compiled and is identifiable as part of an investigation into a possible violation of law. In particular, the investigation related to possible violations of the Criminal Code and the Police Services Act. I find, therefore, that section 14(3)(b) applies to this information.

Sections 14(4) and 16 do not apply in the circumstances of this case. Accordingly, I find that disclosure of the personal information to which access has been denied would constitute an unjustified invasion of the personal privacy of individuals other than the appellant, and I find that this information is exempt from disclosure under section 38(b) of the Act.

ORDER:

1. I order the Police to disclose the minutes of the PSRC meeting of May 3, 1994 in their entirety to the appellant within fifteen (15) days after the date of this order.
2. I uphold the decision of the Police to deny access to the other undisclosed parts of the records.
3. In order to verify compliance with the terms of this order, I reserve the right to require the Police to provide me with a copy of the records which are disclosed to the appellant pursuant to Provision 1.

Original signed by: _____
John Higgins
Inquiry Officer

_____ January 31, 1995