



**Information and Privacy  
Commissioner/Ontario**

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

# **ORDER M-468**

**Appeal M-9400538**

**Halton 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 Halton Regional Police Services Board (the Police) received a request for access to an occurrence report which pertained to an incident involving the requester. The Police located the record which was responsive to the request and denied access to it in its entirety, relying on the following exemptions contained in the Act:

- endanger life or safety - section 8(1)(e)
- facilitate the commission of an unlawful act - section 8(1)(l)
- law enforcement - section 8(2)(a)
- invasion of privacy - sections 14(1) and 38(b).

The requester appealed the decision of the Police. A Notice of Inquiry was forwarded to the Police and the appellant. Representations were received from both parties.

## **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 record at issue and, in my view, the information contained therein qualifies as personal information for the purposes of the Act and, further, relates both to the appellant and other identifiable individuals.

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.

In this situation, 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 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.

I have reviewed the record at issue and the representations of the appellant and the Police and make the following findings:

- (1) The presumption in section 14(3)(b) applies to the personal information contained in the record as it was compiled and is identifiable as part of an investigation into a possible violation of law, the Criminal Code. In my view, the fact that no criminal proceedings were commenced against the individual who was the subject of the investigation does not negate the applicability of section 14(3)(b). The presumption in section 14(3)(b) only requires that there be an investigation into a possible violation of law.
- (2) Sections 14(4) and 16 have no application in the circumstances of this appeal.
- (3) The disclosure of the personal information contained in the record would constitute an unjustified invasion of the personal privacy of individuals other than the appellant. Accordingly, section 38(b) applies to exempt the record at issue from disclosure.

**ORDER:**

I uphold the decision of the Police.

Original signed by: \_\_\_\_\_  
Donald Hale  
Inquiry Officer

\_\_\_\_\_ February 21, 1995