



**Information and Privacy  
Commissioner/Ontario**

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

# **ORDER M-479**

**Appeal M-9400617**

**Windsor 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 Windsor Police Services Board (the Police) received a request, from counsel representing the requester, for access to information relating to incidents involving the requester and a named individual. The Police identified a statement given by the requester to the Police and three police occurrence reports as records responsive to the request. Partial access was granted by the Police. The requester appealed the decision of the Police.

The records at issue in this appeal consist of those portions of the three police occurrence reports withheld by the Police pursuant to the following sections of the Act:

- invasion of privacy - sections 38(b) and 14(3)(b).

A Notice of Inquiry was provided to the appellant and the Police. 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 it satisfies the definition of "personal information". In my view, the personal information relates to both the appellant **and** other 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 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.

In their representations, the Police submit that all the information contained in the records was compiled and is identifiable as part of an investigation into a possible violation of law (section 14(3)(b)). As a result of one investigation, charges were laid. The Police further submit that disclosure of the personal information would represent a presumed unjustified invasion of the personal privacy of other individuals referred to in the records.

I have reviewed the evidence before me and I make the following findings:

- (1) All of the information at issue in the records was compiled and is identifiable as part of an investigation into a possible violation of law to determine if the actions of the individuals involved warranted the laying of criminal charges. The presumption in section 14(3)(b) only requires that there be an investigation into a **possible** violation of law. Therefore, the fact that no criminal charges were laid in two of the three incidents does not negate the applicability of section 14(3)(b) (Order P-237). Accordingly, the presumed unjustified invasion of personal privacy in section 14(3)(b) applies.
- (2) Section 14(4) does not apply to the information and the appellant has not raised the possible application of section 16 of the Act.
- (3) Therefore, I find that disclosure of the personal information about the appellant and other individuals would constitute an unjustified invasion of the personal privacy of those other individuals and is properly exempt from disclosure under section 38(b) of the Act.

**ORDER:**

I uphold the decision of the Police.

Original signed by: \_\_\_\_\_  
Mumtaz Jiwan  
Inquiry Officer

\_\_\_\_\_ March 7, 1995