



**Information and Privacy
Commissioner/Ontario**

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

ORDER M-568

Appeal M-9500123

York 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 York Regional Police Services Board (the Police) received a request for access to information relating to an incident in which criminal charges were laid against the requester. The Police identified a two-page incident report as the record responsive to the request. Partial access was granted by the Police. The requester appealed the decision of the Police.

During mediation, the appellant indicated that he was only interested in obtaining access to the name of the switchboard operator and the address of a named individual, both of which were withheld. Consequently, only these portions of the record are at issue in this appeal.

The Police rely on the following sections of the Act to deny access to the above information:

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

A Notice of Inquiry was provided to both the appellant and the Police. 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 information in the record and I find that it satisfies the definition of "personal information" in section 2(1) of the Act and that this 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 the personal information contained in the record was compiled and is identifiable as part of an investigation into a possible violation of law under the Criminal Code (section 14(3)(b)). The Police further submit that disclosure of the personal information would constitute a presumed unjustified invasion of the personal privacy of other individuals referred to in the record.

I have reviewed the representations of the parties together with the information in the record and I make the following findings:

- (1) The personal information contained in the record was compiled and is identifiable as part of an investigation into a possible violation of law (the Criminal Code). Accordingly, the presumed unjustified invasion of personal privacy under 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) Accordingly, disclosure of the personal information which has been withheld would constitute an unjustified invasion of personal privacy of individuals other than the appellant and is properly exempt under section 38(b) of the Act.

ORDER:

I uphold the decision of the Police.

Original signed by: _____
Mumtaz Jiwan
Inquiry Officer

July 14, 1995