



**Information and Privacy
Commissioner/Ontario**
**Commissaire à l'information
et à la protection de la vie privée/Ontario**

ORDER M-601

Appeal M_9500341

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 Metropolitan Toronto Police Services Board (the Police) received a request for access to the complete file in relation to a break and enter which occurred at the requester's place of business in August, 1994. The Police identified a 23-page record consisting of arrest reports, supplementary reports, internal memorandums, notes and various other processing forms and documents, as responsive to the request. The requester was denied access to the information contained in the record which relates to the accused individuals. The Police rely on the following exemptions in denying access to parts of the record:

- relations with other governments - section 9(1)(d)
- invasion of privacy - section 14

A Notice of Inquiry was provided to 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. I have reviewed the information contained in the record, and I find that it satisfies the definition of personal information. In my view, the personal information is that of the accused individuals.

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 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 can be overcome is if the personal information at issue falls under section 14(4) of the Act 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), as well as all other considerations that are relevant in the circumstances of the case.

The appellant submits that sections 14(2)(a) (disclosure of the record is desirable for the purpose of subjecting the activities of the institution to public scrutiny), 14(2)(b) (access to the personal information may promote public health and safety) and 14(2)(d) (the personal information is relevant to a fair determination of the rights of the person who made the request) are all relevant

considerations in determining whether disclosure of the record would constitute an unjustified invasion of personal privacy.

In their representations, the Police submit that the personal information of the accused persons was compiled and is identifiable as part of an investigation into a possible violation of law, in this case the Criminal Code and, therefore, disclosure would constitute an unjustified invasion of personal privacy under section 14(3)(b) of the Act.

Having reviewed the representations and the record, I have made the following findings:

- (1) The record was compiled as part of an investigation into a possible violation of law. Accordingly, the disclosure of the personal information in the record would constitute a presumed unjustified invasion of the personal privacy of the accused persons under section 14(3)(b).
- (2) None of the personal information contained in the record falls under section 14(4) and the appellant has not raised the possible application of section 16 of the Act.

Accordingly, I find that the disclosure of the personal information in the record at issue would constitute an unjustified invasion of the personal privacy of the accused persons and that the record is exempt from disclosure under section 14 of the Act.

Because of the way in which I have disposed of this issue it is not necessary for me to consider the application of section 9(1)(d) of the Act.

ORDER:

I uphold the decision of the Police.

Original signed by: _____
Holly Big Canoe
Inquiry Officer

_____ September 22, 1995