



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

ORDER M-709

Appeal M_9500625

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 from a public body (the appellant) for a copy of an accident report concerning a named individual. This individual (the deceased) collapsed and died on the appellant's property.

The Police located a four-page sudden death report and provided partial access to the appellant. Access was denied to the remaining portions of the report on the basis of the exemption in section 14(1) of the Act (invasion of privacy). In addition, the Police indicated that a portion of the report was not responsive to the request.

The appellant appealed this decision.

A Notice of Inquiry was sent to the Police and the appellant. Representations were received from the Police only.

DISCUSSION:

RESPONSIVENESS OF RECORDS

As noted above, the Police deleted some information from the records which were disclosed on the basis that it was not responsive to the request. This information appears on page 4 of the record. The deleted passage consists of a police code. The request was for a copy of the accident report. In my view, the police code is found in the report and provides information relating to the call. Accordingly, I find that this information is responsive to the request in the circumstances of this appeal.

PERSONAL INFORMATION

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.

The sudden death report records a great deal of information pertaining to individuals involved at the scene of the death. This information includes, for example, the name, date of birth, marital status, address and telephone number, health card number, next of kin of the deceased, and information relating to witnesses. This is the type of information which has been withheld from disclosure. The record also contains a narrative report of the occurrence, prepared by the police officer in attendance. Portions of the narrative which pertain directly to the deceased and a witness were withheld. As I indicated above, the police code, which was also withheld from disclosure, contains information pertaining to the occurrence, and to the deceased.

I find that all of the information which has been withheld from the report pertains to the deceased and to other individuals present at the time of the occurrence, and this information qualifies as their personal information.

INVASION OF PRIVACY

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 disclosure of personal information would result in an unjustified invasion of personal privacy. Where one of the presumptions 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 if 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 in section 14(3) apply, the institution must consider the application of the factors listed in section 14(2), as well as all other circumstances that are relevant in the circumstances of the case.

The Police indicate in their decision letter that sections 14(3)(a) and (b) of the Act apply to the information contained in the records. These sections read as follows:

A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy if the personal information,

- (a) relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation;
- (b) was compiled and is identifiable as part of an investigation into a possible violation of law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation;

I have reviewed the information at issue, and find as follows:

- (1) The information is contained in a Police Report which was completed as a result of a call for police assistance and which contains information relating to the Police investigation into the circumstances of the death.
- (2) Personal information contained in the reports relating to the deceased and other individuals can be readily identifiable as being compiled as part of this investigation.
- (3) In my view, the personal information contained in the records was compiled and is identifiable as part of an investigation into a possible violation of law and, accordingly, the presumed unjustified invasion of privacy in section 14(3)(b) applies.

- (4) I find that section 14(4) does not apply to the personal information contained in the records, and the appellant has not claimed that section 16 of the Act applies in this appeal.
- (5) I find that disclosure of the information at issue would constitute an unjustified invasion of the personal privacy of the deceased and other individuals referred to in the records and that this information is properly exempt from disclosure under section 14(1) of the Act.

Because of the way I have disposed of this issue, it is not necessary for me to address the possible application of section 14(3)(a).

ORDER:

I uphold the decision of the Police.

Original signed by: _____
Laurel Cropley
Inquiry Officer

_____ February 13, 1996