



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

ORDER M-778

Appeal M_9600102

Halton Regional Police Services Board



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NATURE OF THE APPEAL:

The Halton Regional Police Services Board (the Police) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to copies of reports relating to two meetings with a police constable following an incident involving the requester and his daughter.

The Police identified a two-page occurrence report as responsive to the request and, pursuant to section 21 of the Act, notified the requester's daughter of the request. The requester's daughter objected to the disclosure of the record. The Police granted access to part of the first page of the record, but denied access to the remainder of that page and the second page under the following exemptions:

- invasion of privacy - section 14
- law enforcement - section 8(2)(a)

The requester appealed the decision to deny access.

During mediation, as it appeared to the Appeals Officer that the records may contain the appellant's personal information, sections 38(a) and (b) were added as issues as well.

A Notice of Inquiry was provided to the appellant, the Police, the appellant's daughter and the appellant's former spouse. Representations were received from the Police and the appellant.

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 in the records and I find that it satisfies the definition of "personal information" in section 2(1) of the Act and that this information relates to the appellant and his daughter.

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 another individual and the Police determine that the disclosure of the information would constitute an unjustified invasion of the other individual's personal privacy, the Police have 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 Police 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.

I have reviewed the personal information in the records and I make the following findings:

- (1) This personal information 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 would constitute an unjustified invasion of personal privacy of individuals other than the appellant and qualifies for exemption under section 38(b) of the Act.

I am satisfied that the records are properly exempt from disclosure under section 38(b) of the Act.

ORDER:

I uphold the decision of the Police.

Original signed by: _____
Holly Big Canoe
Inquiry Officer

_____ May 30, 1996