



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

ORDER M-792

Appeal M_9600068

Thunder Bay Police Services Board



80 Bloor Street West,
Suite 1700,
Toronto, Ontario
M5S 2V1

80, rue Bloor ouest
Bureau 1700
Toronto (Ontario)
M5S 2V1

416-326-3333
1-800-387-0073
Fax/Télé: 416-325-9195
TTY: 416-325-7539
<http://www.ipc.on.ca>

NATURE OF THE APPEAL:

The Thunder Bay Police Services Board (the Police) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to information related to a general occurrence check involving the requester. The Police identified a one-page report as the record responsive to the request.

Pursuant to section 21 of the Act, the Police notified an individual whose interests might be affected by disclosure of the record (the affected person). The affected person objected to the disclosure of any information.

The Police then issued a decision in which they provided partial access to the record. They denied access to the balance of the record on the basis of the following exemptions in the Act:

- law enforcement - sections 8(1)(a), (b) and (d)
- endanger life or safety - section 8(1)(e)
- danger to safety or health - section 13
- invasion of privacy - sections 14(1) and 38(b)
- discretion to refuse requester's own information - section 38(a)

The requester filed an appeal of the decision of the Police.

This office sent a Notice of Inquiry to the Police, the appellant and the affected person. Representations were received from all three 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 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 Police submit, and I agree, that the record contains the personal information of both the appellant and the affected person. Although the appellant indicates that he does not seek access to the name or address of the affected person, he confirms that he already knows who contacted the Police. Therefore, even if the name and address were removed, the remaining information related to the affected person would still constitute this individual's personal information.

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 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.

The affected person submits that the presumption in section 14(3)(b) applies. This section states:

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

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;

The record is a general occurrence report which outlines certain incidents involving the affected person and the appellant. The appellant submits that the presumption cannot apply as there was no violation of law. He states that he was not contacted by the Police, they did not investigate the matter and there was no follow-up by the Police. Given that the Police confirm that there was no investigation, I agree with the appellant that the presumption has no application in this case.

I will now consider the submissions of the parties on the application of the factors in section 14(2) as well as all the other circumstances of this case.

Although the Police and the affected person do not refer to the specific sections of the Act, their submissions focus on the sensitive nature of the information, the fact that it was provided to the Police in confidence and that disclosure would expose the affected person unfairly to harm (sections 14(2)(e), (f) and (h)). Both the Police and the affected person have provided this office with extensive background materials to support their assertions in this regard. I accept these submissions, all of which weigh in favour of protecting the privacy interests of the affected person.

The appellant maintains that he requires a copy of the record in order to determine the accuracy of the information concerning him. If it is inaccurate, he wishes to have it omitted or expunged. He further states that the information in the record greatly affects his future employment and that he has already been denied positions because of it.

While I appreciate the appellant's concerns in this regard, I find that disclosure of the record would constitute an unjustified invasion of the personal privacy of the affected person and that it is subject to the exemption in section 38(b) of the Act.

ORDER:

I uphold the decision of the Police.

Original signed by: _____ June 19, 1996
Anita Fineberg
Inquiry Officer