



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

ORDER M_822

Appeal M_9600164

Metropolitan Toronto Police



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NATURE OF THE APPEAL:

The appellant requested an investigation report from the Metropolitan Toronto Police (the Police) under the Municipal Freedom of Information and Protection of Privacy Act (the Act). The investigation report related to the investigation of the appellant's sister's death, which occurred in 1995.

The Police denied access to the record identified as responsive to the request based on the following exemption:

- invasion of privacy - section 14

The appellant appealed the decision to deny access. This office notified the Police and the appellant of the appeal and provided both parties with the opportunity to submit representations on the issues identified in the notice. Both parties submitted representations.

RECORD:

The record is 5 pages long. It consists of a Homicide and Sudden Death Report and three Supplementary Reports. The Police denied access to the record in its entirety.

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. Having reviewed the records, I find that they contain information which is primarily about the appellant's sister and the circumstances surrounding her death. The record, therefore, contains her personal information. The record also contains the personal information of a number of other identifiable individuals, not including the appellant.

Section 14(1) of the Act prohibits the Police from disclosing personal information except in the circumstances listed in sections 14(1)(a) through (f). Of these, only section 14(1)(f) could apply in this appeal. It permits disclosure if it "does not constitute an unjustified invasion of personal privacy."

Disclosing the types of personal information listed in section 14(3) is presumed to be an unjustified invasion of personal privacy. If one of the presumptions applies, the Police can disclose the personal information only if it falls under section 14(4) or if section 16 applies to it.

If none of the presumptions in section 14(3) apply, the Police must consider the factors listed in section 14(2) as well as all other relevant circumstances.

The Police submit that the presumptions in sections 14(3)(a) and (b) apply. These sections state:

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;

With regard to section 14(3)(b), the Police state that the personal information in the record was compiled and is identifiable as part of their investigation into the death of the appellant's sister.

Having reviewed the record and the representations of the Police, I am of the view that the personal information contained in the record was compiled and is identifiable as part of an investigation into a possible violation of law. Accordingly, the requirements for a presumed unjustified invasion of personal privacy under section 14(3)(b) have been established. As section 14(4) has no application in these circumstances and the appellant has not argued that section 16 applies, I find that the record is exempt under section 14 of the Act.

ORDER:

I uphold the decision of the Police.

Original signed by: _____
Holly Big Canoe
Inquiry Officer

_____ August 20, 1996