



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

ORDER M-823

Appeal M_9600119

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 a police report relating to a specific incident involving the requester and a named individual. The Police granted partial access to the general occurrence report.

The Police denied access to portions of the report on the basis that disclosure would constitute an unjustified invasion of the personal privacy of other individuals (sections 14(1) and 38(b)).

The requester appealed the decision to deny access to the remaining portions of the report.

The Commissioner's office provided a Notice of Inquiry to the requester (now the appellant) and the Police. Representations were received only from the Police.

DISCUSSION:

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 report and I find that it qualifies as "personal information". I find that this personal information relates to the appellant and other identifiable individuals.

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 another individual's personal privacy, the Police have the discretion to deny the appellant access to that information. In this situation, the appellant is not required to prove that the disclosure of the personal information **would not** constitute an unjustified invasion of personal privacy of another person. Since the appellant has a right of access to his own personal information, the only situation under section 38(b) in which he can be denied access to the information is if it can be demonstrated that the disclosure of the information **would** constitute an unjustified invasion of another individual's privacy.

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 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 Police 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 Police submit that the general occurrence report was compiled as a result of a complaint made by the appellant. The Police point out that the majority of the information has been disclosed to the appellant and that disclosure of the remaining information would constitute a presumed unjustified invasion of privacy under section 14(3)(b) of the Act. The Police submit that the information at issue consists of names of individuals compiled by the Police and is identifiable as part of an investigation into a possible violation of law (i.e. the Criminal Code).

I have reviewed the record together with the representations of the Police. I make the following findings:

1. I find that the information at issue was compiled and is identifiable as part of an investigation into a possible violation of law. Accordingly, I find that disclosure of this information would constitute a presumed unjustified invasion of privacy under section 14(3)(b) of the Act.
2. None of the information falls under section 14(4) and the appellant has not raised the possible application of section 16 of the Act.
3. Therefore, I find that the information withheld by the Police is exempt from disclosure under section 38(b) of the Act.

ORDER:

I uphold the decision of the Police.

Original signed by _____
Mumtaz Jiwan
Inquiry Officer

August 20, 1996