



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

ORDER M-965

Appeal M_9700004

Waterloo Regional Police Services Board



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NATURE OF THE APPEAL:

The appellants' son was killed in an automobile accident in 1994. They submitted a request to the Waterloo Regional Police Services Board (the Police) under the Municipal Freedom of Information and Protection of Privacy Act (the Act). The request was for access to the Occurrence Report pertaining to the accident.

The Police located the requested Occurrence Report. Before making a decision respecting access, the Police notified 28 individuals mentioned in the record to seek their views on disclosure. Fourteen individuals consented to the disclosure of information pertaining to them, two individuals consented to partial disclosure, two individuals did not consent, four individuals failed to respond, and letters addressed to six individuals were returned to the Police.

The Police considered the responses from the affected individuals in making their final decision to grant partial access to the records. With respect to the portions of the records to which access was denied, the Police rely on the following exemptions in the Act:

- law enforcement - sections 8(1)(d), 8(2)(a) and 8(2)(c)
- invasion of privacy - section 14(1).

The appellants appealed the decision to deny access.

During mediation, the appellants indicated that they were not interested in obtaining access to the occurrence classification number which appears on pages 1, 53, 54, 55 and 56 of the record. Accordingly, this information is not at issue in this appeal.

The information which remains at issue is contained in the severed portions of the 55-page Supplementary Report appended to the Occurrence Report.

DISCUSSION:

PERSONAL INFORMATION

Under section 2(1) of the Act, "personal information" is defined, in part, to mean recorded information about an identifiable individual.

The information severed from the report contains personal identifiers, addresses, telephone numbers and other information about witnesses and others who were involved in this incident. It also includes the time of death of the appellant's son, and information relating to the driver of the other vehicle. I find that all of this information is the personal information of individuals other than the appellants.

INVASION OF PRIVACY

Section 14(1) of the Act prohibits an institution 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 ruling of the Divisional Court in John Doe v. Ontario (Information and Privacy Commissioner) (1993) 13 O.R. 767 makes it clear that an institution can disclose the personal information **only** if it falls under section 14(4) or if the “public interest override” in section 16 applies to it.

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

The Police submit that disclosure of the personal information at issue in the undisclosed portions of the record would result in a presumed unjustified invasion of the personal privacy of other individuals under section 14(3)(b) of the Act, which 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.

I have reviewed the information at issue and the representations of the Police. In the circumstances of this case, an investigation was conducted by the Police into possible violations of the Highway Traffic Act, and charges were laid against one of the drivers involved in the motor vehicle accident. In my view, the information in the “Supplementary Report” was compiled and is identifiable as part of an investigation into a possible violation of law. I therefore find that the release of the undisclosed portions of the record would constitute an unjustified invasion of the personal privacy of other individuals under section 14(3)(b) of the Act.

I also find that section 14(4) does not apply in the circumstances of this case. In addition, the appellants have not argued that there is a compelling public interest in disclosure of this personal information pursuant to the “public interest override” in section 16 of the Act. In any event, the appellants’ interest in this information is of a private nature, and in my view, there is no compelling public interest in disclosure within the meaning of section 16.

Therefore, I find that disclosure would constitute an unjustified invasion of personal privacy and the exception to the exemption in section 14(1)(f) does not apply. I find that the severed information is exempt under section 14(1) of the Act.

I realize that this result will be disappointing to the appellants. However, as noted above, where a presumed unjustified invasion of personal privacy is established under section 14(3), it can only be rebutted if section 14(4) or section 16 applies. Since I have found that neither section 14(4) nor 16 applies, the John Doe case (referred to above) leaves me no alternative than to conclude, as I have, that the severed information is exempt under section 14(1).

Since I have found all of the severed information to be exempt under section 14(1), it is not necessary for me to consider the application of sections 8(1)(d), 8(2)(a), or 8(2)(c) of the Act.

ORDER:

I uphold the decision of the Police.

Original signed by: _____
John Higgins
Inquiry Officer

_____ July 10, 1997