



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

ORDER M-1020

**Appeal M-9700043
[Reconsideration]**

Waterloo Regional 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>

BACKGROUND:

On June 18, 1997, former Inquiry Officer Anita Fineberg issued Order M-952, which addressed the decision by the Waterloo Regional Police Services Board (the Police) under the Municipal Freedom of Information and Protection of Privacy Act (the Act). In Order M-952, former Inquiry Officer Fineberg found that disclosure to the appellant of the record requested would constitute an unjustified invasion of privacy of other identifiable individuals under section 38(b) of the Act. The record consists of a videotape of an interview that took place between the appellant and the Police.

For the purpose of putting the appeal and the reconsideration request in context, I quote from Order M-952:

The appellant is the father of an eight year old girl. Every two weeks, on the weekends, he sees the child in supervised access visits. Beginning in October of 1993, the appellant complained to Family and Children Services and to different Police authorities that his daughter was being emotionally and physically abused by her mother, as well as by her maternal grandparents. All of the allegations were investigated by the different authorities and were not substantiated.

In March of 1996, the appellant again made a similar allegation of child abuse to the Waterloo Regional Police Services Board (the Police). The appellant's statements of the allegations were videotaped by the Police....The appellant subsequently requested a copy of the videotape.

The videotape thus, is the record at issue in Order M-952 and the subject of the appellant's request for reconsideration.

In Order M-952, former Inquiry Officer Fineberg received and considered representations from the appellant, the Police, the child's mother and the child's maternal grandmother on behalf of herself and her husband. She acknowledged that the information in the record was supplied by the appellant to the Police. The former Inquiry Officer found that, in the particular circumstances of the appeal, the record contained the personal information of the appellant, the child, the child's mother and the maternal grandparents and was exempt from disclosure under section 38(b) of the Act.

Specifically, she found that part of the information in the record fell within the presumption provided by section 14(3)(a) (relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation). She also found that the factors in sections 14(2)(e) (unfair exposure to pecuniary or other harm), 14(2)(f) (highly sensitive), 14(2)(i) (unfairly damage the reputation) and all other factors relevant to the case weighed in favour of non-disclosure of the remaining parts of the record under section 38(b) of the Act.

THE RECONSIDERATION REQUEST:

The appellant has requested that the Commissioner or her delegate reconsider the decision in Order M-952 on the basis of the following:

1. The former Inquiry Officer erred in concluding that disclosure of a videotape of an interview with the Police at which the appellant was present constituted an invasion of personal privacy.
2. The former Inquiry Officer erred in believing that the appellant sought access to the record for the purpose of reopening the case. The appellant states that "the issue was already opened by detailed disclosures by my daughter."

DECISION:

The IPC's Reconsideration Policy Statement describes the threshold for proceeding with a reconsideration, as follows:

When an application for reconsideration of an order is received, the order should be reconsidered only where:

1. there is a fundamental defect in the adjudication process (for example, lack of procedural fairness) or some other jurisdictional defect in the order; or
2. there is a typographical or other clerical error in the order which has a bearing on the decision or where the order does not express the manifest intention of the decision maker.

An order should not be reconsidered simply on the basis that new evidence is provided, whether or not that evidence was obtainable at the time of the inquiry.

I have taken into account the scope of the reconsideration policy and the appellant's submissions. In my view, the appellant has not provided any evidence which could provide a basis for reconsideration under either of the grounds set out above. I find that the arguments put forward by the appellant do not fall within the parameters of the IPC's reconsideration policy.

Therefore, based on the foregoing, the appellant's request for reconsideration is denied.

Original signed by: _____

_____ October 9, 1997

Mumtaz Jiwan
Inquiry Officer