



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

ORDER M-995

Appeal M_9700161

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>

NATURE OF THE APPEAL:

The appellant was arrested by the Waterloo Regional Police in 1996. She subsequently submitted a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) to the Waterloo Regional Police Services Board (the Police) for records pertaining to her arrest. She provided the Police with the specific occurrence number regarding this incident.

The Police located responsive records and pursuant to section 21 of the Act, notified two individuals whose interests may be affected (the affected persons). Both affected persons objected to disclosure of the records at issue. The Police then issued their decision to the appellant granting access in full to two pages of the 13-page responsive record and denying access in part to the remaining 11 pages pursuant to the following exemptions under the Act:

- confidential source - section 8(1)(d)
- law enforcement report - section 8(2)(a)
- invasion of privacy - sections 14(1) and 38(b)
- discretion to refuse requester's own information - section 38(a).

In addition, the Police denied access to some of the information in the records claiming that it was not responsive to the request. The appellant appealed this decision.

During mediation, the appellant agreed that the "non-responsive" information was not required and is, therefore, not at issue in this appeal. Accordingly, as the only information severed from Pages 1 and 4 of the record is non-responsive, these two pages are no longer at issue in this appeal.

This office sent a Notice of Inquiry to the appellant, the Police and the two affected persons. Representations were received from all four parties.

The records at issue consist of the withheld portions of pages 2, 3, 5-10 and 12 of the Police Occurrence Report identified by the appellant, with the exception of the non-responsive information. These portions of the records contain the names, and in some cases, addresses, telephone numbers and other personal identifiers of individuals involved in the incident, and portions of the narrative as set out by the attending police officer.

DISCUSSION:

PERSONAL INFORMATION/INVASION OF PRIVACY

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 records and I find that the records all contain the personal information of the appellant, the two affected persons and another identifiable individual.

Where a record contains the personal information of both the appellant and another individual, section 38(b) allows the Police to withhold information from the record if they determine that disclosing that information would constitute an unjustified invasion of another individual's personal privacy. On appeal, I must be satisfied that disclosure **would** constitute an unjustified invasion of another individual's personal privacy. The appellant is not required to prove the contrary.

Sections 14(2) and (3) of the Act provide guidance in determining whether disclosure of personal information would result in an unjustified invasion of the personal privacy of the individual to whom the information relates. Section 14(2) provides some criteria for the head to consider in making this determination. Section 14(3) lists the types of information whose disclosure is presumed to constitute an unjustified invasion of personal privacy.

The only way in which a section 14(3) 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 under section 16 of the Act that there is a compelling public interest in disclosure of the information which clearly outweighs the purpose of the section 14 exemption.

The Police submit that the presumptions in sections 14(3)(b) and (g) and the factors in sections 14(2)(f) and (h) apply in the circumstances of this appeal. I will begin with the presumption in section 14(3)(b).

Section 14(3)(b) states that:

A disclosure of personal privacy 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.

In reviewing the records, I find that the presumed unjustified invasion of personal privacy in section 14(3)(b) applies to the personal information in the records, because this information was clearly "compiled" and is "identifiable" as part of an investigation into a possible violation of law (the Criminal Code).

I find that neither section 14(4) nor section 16 are applicable to the information at issue.

Accordingly, the withheld portions of the records are exempt from disclosure under section 38(b) of the Act.

Because of the findings I have made in this order, it is not necessary for me to consider the other exemptions claimed by the Police.

ORDER:

I uphold the decision of the Police.

Original signed by: _____
Laurel Cropley
Inquiry Officer

_____ September 4, 1997