



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

# **ORDER M-1015**

**Appeal M-9700208**

**Midland 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/Télééc: 416-325-9195  
TTY: 416-325-7539  
<http://www.ipc.on.ca>

## **NATURE OF THE APPEAL:**

The Midland Police Services Board (the Police) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to all information regarding investigations and complaints about the requester in September, 1996. In his request, the requester specified that he was not seeking access to the names or identities of the complainant or witnesses. The Police identified twelve pages as the responsive records and notified three individuals whose interests may be affected by disclosure of the records. One of the individuals consented to the release of his information while the other two individuals objected to the disclosure. Accordingly, the Police granted partial access to the records. The Police withheld access to the remaining records pursuant to the following exemptions under the Act:

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

The requester appealed the decision to deny access. During mediation and within the timelines permitted for the raising of additional discretionary exemptions, the Police raised the possible application of section 8(1)(e) (endanger life or safety).

The records that remain at issue consist of the withheld portions of the incident details and summary, general occurrence reports, will say statement, occurrence report list, supplementary reports and a police officer's notes.

This office provided Notices of Inquiry to the appellant, the Police and the two individuals (the affected persons). Representations were received from the appellant, the Police and one of the affected persons.

## **DISCUSSION:**

### **PERSONAL INFORMATION AND 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 information that remains at issue contains the names, addresses, dates of birth and other information about the affected persons and other identifiable individuals. I find that this information constitutes the personal information of these individuals. I find also that, due to the nature of the records, they also contain the personal information of the appellant.

I note that the appellant has indicated that he is not seeking access to the names and identities of the affected persons. I find, however, that even with the names removed, disclosure of the remaining information to the appellant would reveal the identity of the affected persons.

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 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 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 presumption in section 14(3)(b) and the factors in section 14(2)(f) and (g) apply in the circumstances of this appeal. I will first consider the application of section 14(3)(b), which states:

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

I find that sections 14(4) and 16 do not apply to the information at issue. Accordingly, the withheld portions of the records are exempt 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 application of the other exemptions claimed by the Police.

**ORDER:**

I uphold the decision of the Police.

Original signed by: \_\_\_\_\_  
Mumtaz Jiwan  
Inquiry Officer

\_\_\_\_\_ October 3, 1997