



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

ORDER M-1046

Appeal M-9700239

Metropolitan Toronto Police Services Board



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NATURE OF THE APPEAL:

The Metropolitan Toronto 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 vehicle involved in a named investigation.

The Police responded by denying access to the records pursuant to the following sections of the Act:

- law enforcement - sections 8(1)(b) and (l)
- relations with other governments - section 9(1)(d)
- refuse to disclose requester's own information - section 38(a)

The requester (now the appellant) appealed the Police's decision. A Notice of Inquiry was sent to the Police and the appellant. Representations were received from both parties.

RECORDS:

The records in this appeal are reports concerning a stolen vehicle, CPIC inquiries, CPIC and Ministry of Transport Driver's Licence and Vehicle inquiries and seized documents relating to vehicle registration.

PRELIMINARY ISSUE:

The Police submit that some of the information found on pages 5 and 9 of the records is not responsive to the request.

I have reviewed these parts of the records and I agree that they relate to a vehicle other than the one identified by the appellant in his request. As these parts of the records are not reasonably related to the appellant's request, they are not at issue in this appeal.

DISCUSSION:

PERSONAL INFORMATION

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 the submissions of the Police and the appellant. I find that only pages 4 and 7 of the records contain personal information of the appellant. The remaining pages of the record do not contain personal information of an identifiable individual.

REFUSE TO DISCLOSE REQUESTER'S OWN INFORMATION/LAW ENFORCEMENT

Section 36(1) of the Act allows individuals access to their own personal information held by a government institution. The appellant, therefore, has a general right of access to those records which contain his personal information.

Section 38 sets out exceptions to this right. Under section 38(a) of the Act, the Police have the discretion to deny access to an individual's own personal information in instances where certain exemptions including those found in sections 8(1)(b) and (l) and 9(1)(d), would apply to the disclosure of that personal information.

LAW ENFORCEMENT

The Police claim that section 8(1)(b) and (l) apply to all of the records at issue. These sections state:

A head may refuse to disclose a record if the disclosure could reasonably be expected to,

- (b) interfere with an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result;
- (l) facilitate the commission of an unlawful act or hamper the control of crime.

Order P-403 established that the purpose of section 14(1)(b) of the Freedom of Information and Protection of Privacy Act, which is the provincial equivalent to section 8(1)(b), is to provide institutions with the discretion to preclude access to records in circumstances where disclosure could reasonably be expected to interfere with an ongoing law enforcement investigation. The Police bear the onus of providing evidence to substantiate that, first, a law enforcement investigation is ongoing and second, that disclosure of the records could reasonably be expected to interfere with the investigation.

The Police state that the records relate to an investigation into a large number of stolen vehicles which is still at the investigative stage. According to the Police, as of the date of the representations, a number of charges under the Criminal Code are being considered.

The Police state that should a suspect become aware of the extent of information already in the possession of the police, that person could flee the jurisdiction to escape arrest and prosecution. The Police also claim that disclosure could also reveal information that could tip a suspect as to the direction of the investigation possibly providing an opportunity to tamper with evidence. The Police submit that

premature release could allow potential suspects the opportunity to cover their tracks and evade charges.

I have reviewed the records and considered the representations of the Police and the appellant. I find that the Police have provided sufficient evidence to establish that disclosure could reasonably be expected to interfere with a law enforcement investigation undertaken with a view to a law enforcement proceeding. Therefore, the records qualify for exemption under section 8(1)(b) of the Act. Accordingly, those portions of the records that contain the personal information of the appellant, are exempt under section 38(a) of the Act.

For the reasons I have stated above, the remaining information is exempt under section 8(1)(b).

Because I have found that all of the information contained in the records is exempt under section 8(1)(b) or 38(a) by virtue of section 8(1)(b), I need not consider sections 8(1)(l) and 9(1)(d).

ORDER:

I uphold the decision of the Police.

Original signed by: _____
Marianne Miller
Inquiry Officer

_____ November 27, 1997