



**Information and Privacy
Commissioner/Ontario**

**Commissaire à l'information
et à la protection de la vie privée/Ontario**

ORDER M-1085

Appeal M_9800008

Peel 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/Téléc: 416-325-9195
TTY: 416-325-7539
<http://www.ipc.on.ca>

NATURE OF THE APPEAL:

The Peel Regional Police Services Board (the Police) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act). The request was for access to a copy of any records relating to a specific police investigation in which the appellant was involved. The Police located the requested records and granted access to them, in part. The Police denied access to the remaining portions of the responsive records, however, claiming the application of the following exemptions contained in the Act:

- advice or recommendations - section 7(1)
- law enforcement - section 8(1)(a)
- invasion of privacy - sections 14(1) and 38(b)

The appellant appealed the Police's decision to deny access to the undisclosed portions of the records.

This office provided the Police and the appellant with a Notice of Inquiry soliciting their submissions on the application of the exemptions claimed to the information at issue. Because Record 11 appeared to contain the personal information of the appellant, representations on the possible application of section 38(a) to the undisclosed portion of this record were also requested. Representations were received from both parties. The Police have indicated that they are no longer relying on the section 8(1)(a) exemption and have disclosed to the appellant the remaining information contained in Record 11.

DISCUSSION:

PERSONAL INFORMATION

Under section 2(1) of the Act, "personal information" is defined to mean, in part, recorded information about an identifiable individual. I have reviewed the records and find that Records 2, 3, 4, 7, 8, 14, 15 and 16 only contain information which relates to identifiable individuals other than the appellant. Sections 38(a) and (b) cannot, therefore, apply to the remaining undisclosed information as it relates only to other identifiable individuals. As Record 11 has been disclosed in its entirety, the appellant has now been granted access to all of the personal information in the records which relates to him.

INVASION OF PRIVACY

Once it has been determined that a record contains personal information, section 14(1) of the Act prohibits disclosure of this information to any person other than the individual to whom the information relates except in certain circumstances listed under the section.

Section 14(1)(f) provides that a head shall refuse to disclose personal information to any person other than the individual to whom the information relates except if the disclosure does not constitute an unjustified invasion of personal privacy.

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 presumption in section 14(3)(b) applies to all of the undisclosed information contained in the records as it was compiled and is identifiable as part of an investigation into a possible violation of section 319 of the Criminal Code.

I find that the presumed unjustified invasion of personal privacy in section 14(3)(b) applies to the undisclosed personal information in the records because it 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 undisclosed portions of the records and they are, therefore, exempt under section 14(1). Because I have found that section 14(1) applies, I need not consider the application of section 7(1).

ORDER:

I uphold the decision of the Police.

Original signed by: _____
Donald Hale
Inquiry Officer

_____ March 11, 1998