



**Information and Privacy  
Commissioner/Ontario**

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

# **ORDER M-1117**

## **Appeal M-980051**

### **South Simcoe Police Services Board**



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## **NATURE OF THE APPEAL:**

The South Simcoe Police Service Board (the Police) received a request under the Municipal Freedom of Information and Protection of Privacy Act for access to information about a motor vehicle accident involving the requester's client. The Police notified two witnesses and the other driver, pursuant to section 21 of the Act. One of the witnesses (the affected person) and the other driver involved in the accident objected to disclosure of their personal information. The Police granted partial access to the records and withheld the remaining parts under sections 8(2)(a) ( law enforcement report) and 14(1)(f) (invasion of privacy) of the Act. The requester, now the appellant, appealed the decision to deny access. In this order, any reference to the appellant will include reference to his client.

During mediation, the Police disclosed the other driver's name, address, telephone number, age, sex, vehicle licence number and insurance policy number to the appellant, on the basis that this information had previously been disclosed to the appellant at the time of the accident. The Police also indicated that they were no longer relying on the section 8(2)(a) exemption for the withheld parts of the police officer's notebook as this information was unrelated and in fact non-responsive to the request.

The information which remains at issue is the other driver's statement to the Police and the affected person's name and telephone number which appears on the back of the Motor Vehicle Accident Report (Record 0001). Also at issue is the name, address, telephone number and date of birth of the affected person as it appears in the police officer's notebook (Record 0012). The non-responsive parts of the record are not at issue in this appeal.

This office provided a Notice of Inquiry to the appellant, the affected person, the other driver and the Police. As the records at issue may include the personal information of the appellant, the application of section 38(b) (invasion of privacy) was raised in the Notice of Inquiry. Representations were received from the appellant, the other driver and the Police.

## **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 find that they contain the personal information of the affected person and the other driver. Because this personal information appears in records created as a result of the accident which involved the appellant, this information also relates to the appellant and constitutes his personal information.

### **INVASION OF PRIVACY**

Where a record contains the personal information of both the appellant and another individual, section 38(b) allows the institution to withhold information from the record if it determines 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 other driver objects to the disclosure of his personal information.

The Police submit that the presumption in section 14(3)(b) applies because the information in the records was compiled and is identifiable as part of an investigation into a possible violation of the Highway Traffic Act.

I have reviewed the records and I find that disclosure of the information withheld in the records would constitute a presumed unjustified invasion of personal privacy under section 14(3)(b) as this information was clearly compiled and is identifiable as part of an investigation into a possible violation of law.

I find that neither section 14(4) nor section 16 are applicable to the information at issue. Therefore, I find that the withheld information in the Motor Vehicle Accident Report and the police officer's notebook (Records 0001 and 0012) are properly exempt under section 38(b) of the Act.

**ORDER:**

I uphold the decision of the Police.

Original signed by: \_\_\_\_\_

June 10, 1998

Mumtaz Jiwan

Adjudicator

(formerly Inquiry Officer)