



**Information and Privacy  
Commissioner/Ontario**

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

# **ORDER M-1125**

**Appeal M-9800061**

**South Simcoe Police Services Board**



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## **NATURE OF THE APPEAL:**

The South Simcoe 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 an Accident Report prepared by the Police following the death of a named individual in a parachuting accident in August 1997. The request was made on behalf of a relative of the deceased individual. The Police located 22 pages of responsive records and provided access to nine pages in their entirety, and portions of eleven other pages. Access was denied to two pages in their entirety, and the remaining portions of the eleven pages which were partially disclosed, under section 14(1) of the Act (invasion of privacy).

The requester, now the appellant, appealed the decision to deny access.

A Notice of Inquiry was provided to the appellant and the Police. Representations were received from the Police.

## **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 find that they contain information about the deceased individual. Section 2(2) provides that personal information does not include information about an individual who has been dead for more than 30 years. Since the deceased died less than 30 years ago, the information about him which is contained in the records continues to qualify as his personal information.

The records also contain the personal information of other identifiable individuals. The records do not contain the personal information of the appellant.

Where a record contains the personal information of individuals other than the appellant, section 14(1) of the Act prohibits the disclosure of this information unless one of the exceptions listed in this section applies. The only exception which might apply in the circumstances of this appeal is section 14(1)(f), which permits disclosure if it "... does not constitute an unjustified invasion of personal privacy".

Sections 14(2), (3) and (4) of the Act provide guidance in determining whether the disclosure of personal information would constitute an unjustified invasion of personal privacy. Where one of the presumptions found in section 14(3) applies to the personal information found in a record, the only way such a presumption against disclosure can be overcome is where the personal information falls under section 14(4) or where a finding is made that section 16 of the Act applies to the personal information.

If none of the presumptions contained in section 14(3) apply, the institution must consider the application of the factors listed in section 14(2) of the Act, as well as all other considerations that are relevant in the circumstances of the case.

The Police submit that the factor in section 14(2)(i) (the disclosure of the information would unfairly damage the reputation of any person referred to in the record) and the presumptions in sections 14(3)(a) and (b) are applicable in determining whether disclosure of the personal information would constitute an unjustified invasion of privacy. I will begin with the presumption in section 14(3)(b), which provides that:

A disclosure of personal information 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;

The Police indicate that the records were compiled as part of an investigation into a possible violation of law. They submit that the police officers who created the records were called to the scene and conducted their investigation in order to determine how the deceased had died, whether foul play was suspected and whether possible charges under the Criminal Code could be laid. The investigation resulted in a finding that the deceased died accidentally and no charges were laid.

I agree with the submissions of the Police and find that the presumption in section 14(3)(b) applies to the personal information in the records. Accordingly, since section 14(4) does not apply and the appellant has not raised the possible application of section 16, the records are exempt under section 14(1).

**ORDER:**

I uphold the decision of the Police.

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

Donald Hale  
 Adjudicator  
 (formerly Inquiry Officer)

\_\_\_\_\_ June 17, 1998