



**Information and Privacy  
Commissioner/Ontario**

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

# **ORDER M-1141**

**Appeal M-9800107**

**Halton Regional Police Services Board**



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## **NATURE OF THE APPEAL:**

The Halton Regional 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 relating to the requester. The Police identified a one-page occurrence report as responsive to the request and granted access to most of it. The Police denied access to a small entry made at the bottom of the record on the basis of section 14(1) (invasion of privacy) of the Act. The requester, who is the complainant named in the record, appealed the Police decision to deny access.

During mediation, the Police issued a revised decision which replaced their earlier decision. In this second decision letter, the Police stated that they were withholding access to the same information on the basis of sections 14(1) (invasion of privacy), 8(2) (law enforcement) and 38(a) (discretion to refuse requester's own information) of the Act.

This office provided a Notice of Inquiry to the appellant and the Police. Representations were received from both parties.

## **DISCUSSION:**

### **PERSONAL INFORMATION:**

Under section 2(1) of the Act, "personal information" is defined, in part, to mean recorded information about an identifiable individual, including the views or opinions of another individual about the individual.

I have reviewed the record which was created as a result of a complaint filed by the appellant. The portion withheld by the Police appears at the bottom of the record and contains a numerical code utilized by the Police. The Police have disclosed the remaining parts of the record on the premise that they contain the personal information of the appellant.

The Police acknowledge that the whole record, contains only the personal information of the appellant. The Police submit that the withheld portion documents the investigating officer's opinion about the appellant. I agree. As I have indicated previously, the definition of "personal information" under section 2(1) of the Act, includes the views or opinions of another individual about the individual. Therefore, I find that the withheld portion of the record also qualifies as the personal information of the appellant.

### **INVASION OF PRIVACY**

The Police claim that disclosure of the withheld information would result in a presumed invasion of personal privacy of another individual under sections 14(3)(b) (violation of law) and 14(3)(g) (personal recommendations or evaluations) of the Act. I have previously found that the record contains the personal information of the appellant only and therefore, in my view, disclosure of this information to the appellant could not possibly result in a presumed invasion of another individual's personal privacy. I find that section 14(1) of the Act does not apply.

## **LAW ENFORCEMENT/DISCRETION TO REFUSE REQUESTER'S OWN PERSONAL INFORMATION**

The Police rely on section 38(a) to deny access to the record. Under section 38(a), the Police have the discretion to refuse access to an individual's own personal information in instances where the exemptions in sections 6, 7, **8**, 9, 10, 11, 12, 13 or 15 would apply to the disclosure of that personal information [emphasis added].

The Police state that the exemptions in sections 8(2)(a) and 8(2)(c) apply in the circumstances of this appeal. These sections state:

A head may refuse to disclose a record,

- (a) that is a report prepared in the course of law enforcement, inspections or investigations by an agency which has the function of enforcing and regulating compliance with a law;
- (b) that is a law enforcement record if the disclosure could reasonably be expected to expose the author of the record or any person who has been quoted or paraphrased in the record to civil liability;

I will first consider the application of section 8(2)(a). The Police submit that the record is an occurrence report which contains the facts in the case and documents the investigating police officer's findings. The Police state that their powers are governed by Bill 107 of the Police Services Act and they are responsible for enforcing and regulating compliance with the Criminal Code of Canada, as well as Provincial and Municipal legislation.

For a record to qualify for exemption under this section, it must consist of a report. The word "report" is not defined in the Act. However, previous orders of the Commissioner have established that, to qualify as a report, a record must consist of a formal statement or account of results of the collation and consideration of information. Generally speaking, results would not include mere observations or recordings of fact (Order M-1048).

The record consists of a portion of an occurrence report which is a form document routinely completed by police officers as part of the criminal investigation process. An occurrence report consists primarily of information about the occurrence of an incident which is provided by identifiable individuals to a police officer. This information generally tends to be descriptive and factual and does not consist of an account of the results of the collation and consideration or analysis of information. Having reviewed the record and regardless of the fact that it was prepared as part of a criminal law enforcement investigation by an agency which has the function of enforcing and regulating compliance with the law, I find that it does not qualify as a "report" for the purposes of section 8(2)(a) of the Act.

With respect to section 8(2)(c), the Police submit that the record contains the investigating police officer's opinion and "the disclosure of this opinion could lead the appellant to hold the officer and the Police Service liable for stating or documenting the remark." In my view, the Police bear the onus of demonstrating that disclosure of the record could reasonably be expected to result in the harm described in section 8(2)(c). I find that I have not been provided with sufficient evidence to allow me to find that the disclosure of the severed information could reasonably be expected to expose the police officer or the Police to civil liability. Therefore, I find that section 8(2)(c) does not apply.

Because neither sections 8(2)(a) nor 8(2)(c) apply, I find that section 38(a) is not applicable in the circumstances of this appeal.

In summary, I have found that neither the mandatory exemption provided by section 14(1) nor the discretionary exemptions in section 38(a) apply to the record. The record should be disclosed to the appellant by the Police.

**ORDER:**

1. I order the Police to disclose the withheld portion of the record by sending a copy to the appellant by **August 21, 1998**.
2. In order to ensure compliance with the provisions of this order, I reserve the right to require the Police to provide me with a copy of the record which is disclosed to the appellant pursuant to Provision 1.

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

Mumtaz Jiwan  
Adjudicator

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July 31, 1998