



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

# **ORDER MO-1182**

**Appeal MA-980196-1**

**Ottawa-Carleton Regional Police Services Board**



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## **NATURE OF THE APPEAL:**

The appellant submitted a request to the Ottawa-Carleton Regional Police Services Board (the Police) under the Municipal Freedom of Information and Protection of Privacy Act (the Act). The request was for access to a copy of the handwritten notes of the officer who investigated a motor vehicle accident in which the appellant was injured, as well as a copy of any witness names and statements of witnesses.

The Police notified the witness pursuant to section 21(1) of the Act, but did not receive a response from this individual. The Police then granted partial access to the record. The Police denied access to a portion of the record on the basis of sections 8(2)(a) (law enforcement) and 14(1)(f), with reference to section 14(3)(b) (invasion of privacy).

The appellant appealed the denial of access.

This office sent a Notice of Inquiry to the appellant and the Police. Because the record appeared to contain information pertaining to the appellant, the Notice asked the parties to address the possible application of sections 38(a) (discretion to refuse to disclose requester's own information) and 38(b) (invasion of privacy) of the Act.

Representations were received from the Police.

## **RECORDS:**

The record at issue comprises the withheld portions of a one-page Accident Supplementary Report. The withheld information consists of a statement made by the driver of the vehicle, and information which identifies a witness and what this person observed.

## **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. The record was created during a police investigation into a pedestrian/motor vehicle accident in which the appellant was injured. The record contains the name, address and telephone number of a witness to the accident as well as information obtained from the driver of the vehicle and the witness as to what transpired. I find that the record contains recorded information about the appellant, as well as the driver and the witness, and, therefore, qualifies as the personal information of all three individuals.

Where a record contains the personal information of both the appellant and another individual, section 38(b) allows the Police 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.

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 Ontario Court of Justice (General Division) determined in the case of John Doe et al. v. Ontario (Information and Privacy Commissioner) (1993), 13 O.R. (3d) 767, that 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.

Section 14(3)(b) states that:

A disclosure of personal privacy 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 state that the accident was investigated and the information collected for the sole purpose of interviewing all parties and ascertaining whether criminal charges were warranted. The Police submit, therefore, that the personal information was compiled and is identifiable as part of an investigation into a possible violation of law, and its disclosure would constitute a presumed unjustified invasion of personal privacy. Additionally, the Police note that the witness was notified and did not consent to disclosure of his/her personal information.

I have reviewed the record and considered the representations of the Police. I find that the record was created as part of a police investigation into the circumstances of a pedestrian/motor vehicle accident which was conducted with a view to determining whether criminal charges should be laid against any party. Therefore, I find that the personal information in the record was compiled and is identifiable as part of an investigation into a possible violation of law. I find further that neither section 14(4) nor section 16 apply to the personal information in the record. Accordingly, I find that the withheld portion of the record is properly exempt under section 38(b).

Because of the findings I have made, it is not necessary for me to consider the possible application of the exemptions in sections 8(2)(a) and 38(a).

**ORDER:**

I uphold the decision of the Police.

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

Laurel Cropley  
Adjudicator

\_\_\_\_\_ January 8, 1999