



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

# **ORDER MO-1231**

**Appeal MA-990043-1**

**Halton Regional Police Services Board**



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## **NATURE OF THE APPEAL:**

The appellant made a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) to the Halton Regional Police Services Board (the Police). The request was for access to a police officer's notebook entry for a named officer and an unidentified female officer regarding a domestic call involving the appellant.

The Police granted access to part of the notebook. Access to the remaining part of the notebook was denied under section 38(b) (invasion of privacy) of the Act.

The appellant appealed the decision of the Police.

I sent a Notice of Inquiry to the Police, the appellant and the other individual involved in the domestic call (the affected person). Representations were received from the Police and the affected person only.

## **RECORDS:**

There are two pages of the named officer's notebook. Part of the withheld information of the first page and all of the withheld information on the second page have been identified as not responsive by the Police. The appellant agrees that the portions of the record which the Police have identified as not responsive to his request are not at issue in this appeal. Accordingly, the second page of the notebook is not at issue.

The Police were not able to locate any responsive records relating to the unidentified female officer.

## **DISCUSSION:**

### **PERSONAL INFORMATION**

Under section 2(1) of the Act, "personal information" is defined, in part, to mean recorded information about an identifiable individual. Having reviewed the record, I find that the information at issue relates to the domestic situation between the appellant and the affected person, detailing the complaint made to the Police and the Police response to the complaint. In my view, this information qualifies as personal information of both the appellant and the affected person.

Section 38(b) of the Act introduces a balancing principle. The head must look at the information and weigh the requester's right of access to his own personal information against another individual's right to the protection of their privacy. If the head determines that release of the information would constitute an unjustified invasion of the other individual's personal privacy, then section 38(b) gives him the discretion to deny access to the personal information of the requester.

In determining whether the exemption in section 38(b) applies, sections 14(2), (3) and (4) 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. Section 14(4) refers to certain types of information whose disclosure does not 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 [Order M-1154; *John Doe v. Ontario (Information and Privacy Commissioner)* (1993), 13 O.R. (3d) 767 (Div. Ct.)].

The Police and the affected person claim the application of section 14(3)(b), to support their application of section 38(b). This section reads:

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;

Having reviewed the records, it is clear that the information recorded by the officer in his notebook during the course of his investigation of the incident involving the appellant and the affected person is information which was compiled and is identifiable as part of an investigation into a possible violation of law, namely the Criminal Code. Accordingly, I find that the presumed unjustified invasion of privacy in section 14(3)(b) has been established. Section 14(4) does not apply, and the appellant has not raised the application of section 16. Accordingly, I find that the record is exempt under section 38(b).

**ORDER:**

I uphold the decision of the Police.

Original signed by: \_\_\_\_\_  
Holly Big Canoe  
Adjudicator

\_\_\_\_\_ August 19, 1999