



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

# **ORDER MO-1265**

**Appeal MA-990206-1**

**Thunder Bay Police Services Board**



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## **NATURE OF THE APPEAL:**

The appellant submitted a request to the Thunder Bay Police (the Police) under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to records regarding parking violations on a named street, including letters, memoranda and e-mail, dated from October 1998 to the present.

The Police identified 20 pages of records responsive to the request, and provided partial access to them. The Police indicated that they were denying access to certain records or portions of records based on section 38(b)(unjustified invasion of another individuals' privacy), in conjunction with sections 14(1)(f) and 14(3)(b) of the Act

The requester (now the appellant) appealed the Police's decision to withhold records.

During mediation the scope of the appeal was narrowed to the withheld portions of pages 1 and 2 of the 20 responsive records.

I sent a Notice of Inquiry to, and received representations from, the appellant. I found it unnecessary to seek representations from the Police.

## **RECORD:**

The record at issue in this appeal is a two page Police General Occurrence Report. Portions of both pages of the record were withheld from the appellant.

## **DISCUSSION:**

### **PERSONAL PRIVACY**

Under section 2(1) of the Act, "personal information" is defined, in part, to mean recorded information about an identifiable individual. The withheld portions of the record contain statements by the Police officers gathered during the course of the investigation into allegations against the appellant. The withheld information includes statements of the complainant about the events relating to the subject matter of the complaint, which includes information relating to the complainant as well as the appellant. Therefore, I find that the records contain the personal information of both the appellant and the complainant.

### **RIGHT OF ACCESS TO ONE'S OWN PERSONAL INFORMATION/UNJUSTIFIED INVASION OF OTHER INDIVIDUALS' PRIVACY**

Section 36(1) of the Act gives individuals a general right of access to their own personal information held by a government body. Section 38 provides a number of exceptions to this general right of access.

Under section 38(b) of the Act, where a record contains the personal information of both the appellant and other individuals and the institution determines that the disclosure of the information would constitute an unjustified invasion of another individual's personal privacy, the institution has the discretion to deny the requester access to that information.

Where, however, the record only contains the personal information of other individuals, and the release of this information would constitute an unjustified invasion of the personal privacy of these individuals, section 14(1) of the Act prohibits an institution from releasing this information.

In both these situations, 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 institution to consider in making this determination. Section 14(3) lists the types of information the disclosure of which is presumed to constitute an unjustified invasion of personal privacy. Section 14(4) refers to certain types of information the disclosure of which does not constitute an unjustified invasion of personal privacy. The Divisional Court has stated that once a presumption against disclosure has been established, it cannot be rebutted by either one or a combination of the factors set out in 14(2) [Order P-1456, citing John Doe v. Ontario (Information and Privacy Commissioner) (1993), 13 O.R. (3d) 767].

In this case, the Police have cited section 14(1)(f) (unjustified invasion of another individuals' privacy) together with the presumption in section 14(3)(b) (personal information compiled and identifiable as part of a law enforcement investigation).

The appellant submits:

Section 38(b): Even though the information pertaining to myself and the neighbour, may be interwoven in the same report, I feel I should receive the information as it is regarding me. Also, being my own personal information, I should receive it, as it is my right, and it is also an invasion of my privacy; if I'm denied access to information and accusations levelled against me.

Section 14(1)(f): The information and accusations in the correspondence - which I'm discovering is not always accurate is an invasion of my personal privacy; and is also affecting my good name and reputation.

Section 14(3)(b): It is imperative that I have access to all the correspondence as the accusations made against me may be incorrect - and only the other individual's interpretation of what actually happened. Without all the information I have no way of knowing what has been reported, and how to resolve the problem and defend myself and my reputation. There has not been a police investigation, regarding the incident. The Thunder Bay Parking Authority has contracted Apex Security to patrol the street at nights - and this incident has been referred to them. They patrol the streets and ticket the vehicles and report back to the parking authority.

My family has endured these accusations, along with the stress and tension for the past year and a half, and I feel that we have the right to know what is being said about us.

I have carefully reviewed the withheld portions of the record at issue. In the circumstances, it is clear  
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that this personal information was compiled and is identifiable as part of an investigation into possible violations of parking by-laws. On this basis, the presumption at section 14(3)(b) applies, and therefore the information is exempt under section 38(b) of the Act.

The Police have already disclosed significant portions of the record at issue. In my view, the information withheld by the Police is primarily the personal information of the complainant. In some cases, the information also relates to the appellant, but this information is so intertwined with the complainant's that it cannot reasonably be severed without unjustifiably invading the privacy of the complainant. As a result, there is no basis for not upholding the decision of the Police.

I note that the appellant has indicated that he believes records relating to this matter are not accurate. I direct the appellant's attention to section 36(2) of the Act which reads:

Every individual who is given access under subsection (1) to personal information is entitled to,

- (a) request correction of the personal information if the individual believes there is an error or omission;
- (b) require that a statement of disagreement be attached to the information reflecting any correction that was requested but not made; and
- (c) require that any person or body to whom the personal information has been disclosed within the year before the time a correction is requested or a statement of disagreement is required be notified of the correction or statement of disagreement.

Based on section 36(2), the appellant is entitled to request correction of any personal information to which he has been given access, and may require the attachment of a statement of disagreement or notification in accordance with paragraph (c) of that section.

**ORDER:**

I uphold the decision of the Police to withhold portions of the record at issue.

Original signed by: \_\_\_\_\_  
David Goodis  
Senior Adjudicator

December 22, 1999