



**Information and Privacy  
Commissioner/Ontario**

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

# **ORDER MO-1443**

**Appeal MA-010028-1**

**Peel Regional Police**



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## **NATURE OF THE APPEAL:**

The Peel Regional Police (the Police) received a request for access to information pursuant to the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*). The appellant specifically sought information about an incident that occurred in the summer of 1999, and the identity of the persons who contacted the Police.

The Police located one record, consisting of three pages, as responsive to the request and granted partial access to it (pages 1 and 3 in their entirety). In denying access to severed portions of this record, the Police relied on the exemptions at section 14(1)(f) (invasion of privacy), and section 38(b) in conjunction with section 14(3)(b) (investigation into possible violation of law).

During mediation of this appeal, the Police issued a second decision letter granting access to further information on page 2 of the record.

I sent a Notice of Inquiry to the Police initially, setting out the facts and issues of this appeal. The Police returned a response, the non-confidential portions of which were shared with the appellant. No representations were received from the appellant.

## **RECORDS:**

There is one record at issue, which consists of three pages of a Police Occurrence Report.

## **DISCUSSION:**

### **PERSONAL INFORMATION**

The first issue to be determined is whether the record contains personal information and if so, to whom that personal information relates.

Under section 2(1) of the *Act*, “personal information” is defined, in part, to mean recorded information about an identifiable individual, including:

(d) the address, telephone number, fingerprints or blood type of the individual,

...

(h) the individual's name if it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual;

The record consists of a Police Occurrence Report on which the appellant's name, and the name, address, telephone number of an affected person, are recorded. It also details other personal information about the affected person. Based on the above, this information qualifies as “personal information” under section 2(1)(d) and (h).

## **RIGHT OF ACCESS TO ONE'S OWN PERSONAL INFORMATION/UNJUSTIFIED INVASION OF 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.

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 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 a compelling public interest exists in the disclosure of the record in which the personal information is contained which clearly outweighs the purpose of the section 14 exemption.

In this appeal, the Police have relied on the presumption at section 14(3)(b) in conjunction with section 38(b). These sections read:

38. A head may refuse to disclose to the individual to whom the information relates personal information,

(b) if the disclosure would constitute an unjustified invasion of another individual's personal privacy;

14(3) A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy if the personal information,

(b) 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 submit:

The record at issue consists of part of an occurrence report in which the complainant reported to the Peel Regional Police that a theft of their property had occurred. Peel Regional Police at that time commenced an investigation into the alleged theft which would be an offence under the *Criminal Code of Canada*. All information obtained by the investigating officer from the complaint was compiled at that time and is identifiable as part of that investigation into a possible violation of law.

Based on the material before me, I accept the submission of the Police that the withheld information consists of personal information of an individual other than the appellant, and that this information was compiled and is identifiable as part of an investigation into a possible violation of law. It is clear that the Police compiled this information to determine whether or not charges were warranted under provisions of the *Criminal Code* dealing with theft.

I find that disclosure of any of the information withheld by the Police would constitute an unjustified invasion of the privacy of an individual other than the appellant, even if no charges were laid (Orders P-223, P-237 and P-1225). It is apparent to me that the Police carefully considered each line of the record and provided the appellant with as much information pertaining to him as could reasonably be disclosed without unjustifiably invading the privacy of the affected person. None of the circumstances outlined in section 14(4), which would overcome a section 14(3)(b) presumption, are present in this appeal. In the circumstances of this appeal, the public interest override does not apply.

I also find that the Police properly exercised discretion under section 38(b), by taking into account all of the relevant circumstances of this appeal.

**ORDER:**

I uphold the decision of the Police.

Original signed by: \_\_\_\_\_  
Dora Nipp  
Adjudicator

\_\_\_\_\_ June 20, 2001