



**Information and Privacy
Commissioner/Ontario**

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

ORDER M-456

Appeal M-9400516

Metropolitan Toronto Police Services Board



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NATURE OF THE APPEAL:

This is an appeal under the Municipal Freedom of Information and Protection of Privacy Act (the Act). The appeal relates to a request submitted to the Metropolitan Toronto Police Services Board (the Police) on behalf of an individual (the appellant) by his counsel.

In the request, the appellant asked for access to a police officer's notes, and any incident report produced, all with respect to an arrest at a shopping centre. He also requested access to the name of a security officer who was involved in this incident. The request letter alleges that the appellant was present at the arrest and became involved.

The Police denied access to the requested information on the basis of the following exemption:

- invasion of privacy - section 14(1).

The appellant's counsel filed an appeal in respect of the denial of access. The records at issue consist of five pages of notebook entries prepared by two police officers.

A Notice of Inquiry was sent to the appellant and the Police. Representations were received from the Police only.

DISCUSSION:

INVASION OF PRIVACY

Under section 2(1) of the Act, "personal information" is defined, in part, to mean recorded information about an identifiable individual, including any identifying number assigned to the individual and the individual's name where 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.

I have reviewed the records. In my view, the portions of the records which are responsive consist of the personal information of individuals other than the appellant. Because the appellant is not mentioned anywhere in the records, and there is no mention of his involvement in the incident, I find that the records do not contain his personal information.

Once it has been determined that a record contains personal information, section 14(1) of the Act prohibits the disclosure of this information except in certain circumstances.

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 personal privacy. Where one of the presumptions in section 14(3) applies to the personal information found in a record, the only way such a presumption against disclosure can be overcome is if the personal information falls under section 14(4) or where a finding is made that section 16 of the Act applies to the personal information.

If none of the presumptions in section 14(3) apply, the institution must consider the application of the factors

listed in section 14(2) of the Act, as well as all other circumstances that are relevant in the circumstances of the case.

In their representations, the Police refer to the presumed unjustified invasion of personal privacy in section 14(3)(b). They also make reference to sections 14(3)(d) and 14(2)(g). Based upon a review of the records, it is clear that they were compiled and are identifiable as part of an investigation into a possible violation of law. In particular, the investigation related to a possible violation of the Criminal Code. I find, therefore, that section 14(3)(b) applies. For this reason, it is not necessary for me to consider whether sections 14(3)(d) and 14(2)(g) apply.

Sections 14(4) and 16 do not apply in the circumstances of this case. Accordingly, I find that disclosure of the records would constitute an unjustified invasion of personal privacy, and the exemption in section 14(1) applies.

ORDER:

I uphold the decision of the Police.

Original signed by: _____
John Higgins
Inquiry Officer

_____ February 1, 1995