



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

ORDER M-517

Appeal M-9400553

Guelph 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 Guelph Police Services Board (the Police) received a request for all information pertaining to the requester. Partial access was granted to the records. The requester appealed the decision to deny access to the remaining records.

The records relate to a complaint filed by the appellant against the Police in connection with certain police action which prevented the appellant from being able to attend a custody hearing.

The records to which access has been denied consist of portions of the following:

- Records 1 and 1A which are two computer generated pages;
- Record 2 which is a three-page public complaint-form 4 containing summaries of statements obtained during the investigation; and
- Record 3 which is a two-page public complaint investigation document.

Access to the records described above was denied on the basis of the following exemptions:

- discretion to refuse requester's own information - section 38(a)
- law enforcement - sections 8(1)(d) and 8(2)(a)
- invasion of privacy - section 38(b)
- danger to mental or physical health of requester - section 38(d)

A Notice of Inquiry was provided to the appellant, the Police and an individual named in the records (the affected person). Representations were received from the institution and the affected person.

PRELIMINARY MATTER:

The Police claim that the portions of Records 1 and 1A which have been withheld from disclosure are not responsive to the request. As I have previously indicated, Records 1 and 1A are computer generated pages of information contained on a computer screen. The Police state that the information withheld contains computer codes within a specific module in the police records system. The remaining severance on Record 1 contains the name of an individual. The Police submit that this information is not responsive to the request because it is not the personal information of the requester.

I have reviewed the information in the records. I find that the portions of Records 1 and 1A relating to the Police's in-house computer system are not responsive to the request. I find that the name on Record 1 relates to a legal process involving the appellant, and is, therefore, responsive to the request. I will include this information in my discussion below.

DISCUSSION:

The Police have claimed that section 38(b) applies to all the records at issue in this appeal. I will therefore first consider whether disclosure of the information in the records would constitute an unjustified invasion of personal privacy under section 38(b) of the Act.

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 information in the records and I find all of the information at issue (including the name withheld on Record 1) qualifies as personal information. I find that the personal information relates to both the appellant **and** other identifiable individuals.

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 Police determine that the disclosure of the information would constitute an unjustified invasion of another individual's personal privacy, the Police have the discretion to deny the requester access to that information.

Sections 14(2), (3) and (4) of the Act provide guidance in determining whether the disclosure of personal information would constitute an unjustified invasion of personal privacy. Where one of the presumptions found 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 where 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 contained 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 considerations that are relevant in the circumstances of the case.

The Police submit that the presumption contained in section 14(3)(b) (information compiled and identifiable as part of an investigation into a possible violation of law) applies to the personal information at issue in this appeal. The Police state that the records relate to an investigation into the complaint of the appellant. The investigation was conducted pursuant to the Police Services Act.

I have carefully reviewed the records together with the representations submitted to me. I make the following findings:

- (1) The personal information contained in the records was compiled and is identifiable as part of an investigation into a possible violation of law (i.e. the Police Services Act). Accordingly, the disclosure of the information would constitute a presumed unjustified invasion of personal privacy under section 14(3)(b).
- (2) None of this information falls within the ambit of section 14(4). The appellant has not claimed that section 16 of the Act applies to this information.
- (3) Accordingly, the exemption in section 38(b) applies to the personal information in the records.

Because of the manner in which I have disposed of the above issue, it is not necessary for me to consider the application of sections 8(1)(d), 8(2)(a), 38(a) and 38(d) to the records.

ORDER:

I uphold the decision of the Police.

Original signed by: _____
Mumtaz Jiwan
Inquiry Officer

_____ May 2, 1995