



**Information and Privacy
Commissioner/Ontario**

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

ORDER M-494

Appeal M-9400721

Peel Regional 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 Peel Regional Police Services Board (the Police) received a request for an occurrence report related to a sudden death at a water park. The requester also sought access to the names and badge numbers of the officers who attended the scene and any inspection or report regarding equipment at the water park in regards to the death. The requester was a private investigation firm retained by the law firm representing the water park in a civil action related to the incident.

The Police granted access to the names and badge numbers of the officers, informed the requester that no records exist regarding an inspection or report regarding equipment at the water park and denied access to the occurrence report under the following exemptions:

- law enforcement - section 8(2)(a)
- invasion of privacy - sections 14 and 38(b)

The requester appealed the decision of the Police to deny access only. A Notice of Inquiry was sent to the Police and the appellant. Representations were received from both parties.

DISCUSSION:

LAW ENFORCEMENT

In order to qualify for exemption under section 8(2)(a) of the Act, a record must satisfy each part of the following three-part test:

1. the record must be a report; **and**
2. the report must have been prepared in the course of law enforcement, inspections or investigations; **and**
3. the report must have been prepared by an agency which has the function of enforcing and regulating compliance with a law.

Part One

In order to satisfy the first part of the test (i.e. to be a report), a record must consist of a formal statement or account of the results of the collation and consideration of information. Generally speaking, results would not include mere observations or recordings of fact (Order 200).

Having reviewed the record and the representations provided to me, I am satisfied that the record qualifies as a "report" within the meaning of section 8(2)(a) of the Act.

Part Two

The term "law enforcement" is defined in section 2(1) of the Act as:

- (a) policing,
- (b) investigations or inspections that lead or could lead to proceedings in a court or tribunal if a penalty or sanction could be imposed in those proceedings, and
- (c) the conduct of proceedings referred to in clause (b);

The Police submit that the report was prepared in the course of a law enforcement investigation into a sudden death. The Police indicate that all investigations into sudden deaths are undertaken to determine whether the death was caused by a possible violation of the Criminal Code and if so, to preserve the scene and any potential evidence. Accordingly, I am satisfied that the second part of the section 8(2)(a) test has been met as the report was prepared in the course of a law enforcement investigation.

Part Three

The report was prepared by an officer from the Peel Regional Police, an agency which has the function of enforcing and regulating compliance with a law. Accordingly, in my view, the third part of the test for the application of section 8(2)(a) has been satisfied.

As all of the requirements of the section 8(2)(a) test have been met, I find that the records qualify for exemption under section 8(2)(a) of the Act.

Section 8(2)(a) enables the Police to refuse to disclose the entire "report". Thus, unlike other exempting provisions in the statute, there is no obligation to sever portions of the documents which do not contain sensitive material and disclose them to the appellant.

ORDER:

I uphold the decision of the Police.

Original signed by: _____
Holly Big Canoe
Inquiry Officer

March 22, 1995