



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

ORDER M-776

Appeal M_9600060

Peel Regional Police Services Board



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NATURE OF THE APPEAL:

The Peel Regional Police Services Board (the Police) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to information relating to the alleged abuse of the requester's daughter. The requester pointed out that no charges were laid against him nor are any contemplated.

The Police denied access to 43 pages of records and a videotape under the following exemptions:

- invasion of privacy - sections 38(b) and 14
- discretion to refuse requester's own information/law enforcement - sections 38(a) and 8(1)(b)

The requester appealed the decision to deny access.

During mediation, the Police indicated that three complete pages and portions of four other pages of records were not responsive to the request. The appellant agreed that non-responsive materials would not be at issue in this inquiry. Accordingly, the records at issue consist of 27 complete pages and parts of four pages of police notebooks, two occurrence reports of four and five pages in length and an interview videotape.

A Notice of Inquiry was provided 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.

I have reviewed the information in the records and I find that it satisfies the definition of "personal information" in section 2(1) of the Act. This information relates primarily to the appellant's daughter, but also to 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 Police 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.

I have reviewed the personal information in the records and I make the following findings:

- (1) The personal information was compiled and is identifiable as part of an investigation into a possible violation of law (the Criminal Code). Accordingly, the presumed unjustified invasion of personal privacy under section 14(3)(b) applies.
- (2) Section 14(4) does not apply to the information and the appellant has not raised the possible application of section 16 of the Act.
- (3) Accordingly, disclosure of the personal information would constitute an unjustified invasion of personal privacy of individuals other than the appellant and qualifies for exemption under section 38(b) of the Act.

I am satisfied that the records are properly exempt from disclosure under section 38(b) of the Act.

ORDER:

I uphold the decision of the Police.

Original signed by: _____
Holly Big Canoe
Inquiry Officer

_____ May 29, 1996