



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

ORDER M-924

Appeal M_9700002

Halton Regional Police Services Board



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NATURE OF THE APPEAL:

The Halton 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 an occurrence report relating to an incident in which the requester and his dog were allegedly attacked by another dog in the neighbourhood. Pursuant to section 21 of the Act, the Police notified the owner of the dog and another individual named in the record. The dog owner objected to the disclosure of the information while the other individual consented. The Police granted partial access to the record.

The Police denied access to the remaining information on the basis of the following exemptions under the Act:

- invasion of privacy - sections 14(1) and 38(b)
- law enforcement - section 8(2)(c)

The requester (now the appellant) appealed the decision to deny access.

This office provided a Notice of Inquiry to the appellant, the Police and the owner of the dog (the affected person). Representations were received from all parties.

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 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.

The information at issue consists of the affected person’s name, address, date of birth, sex, race and telephone number. The record also contains other information relating to the affected person. I find that this information qualifies as the personal information of the affected person and relates to both the affected person and the appellant.

Section 36(1) of the Act allows individuals access to their own personal information held by a government institution. However, section 38 sets out exceptions to this right.

Where a record contains the personal information of both the appellant and other individuals, section 38(b) of the Act allows the institution to withhold information from the record if it determines that disclosing that information would constitute an unjustified invasion of another individual’s personal privacy. On appeal, I must be satisfied that disclosure **would** constitute an unjustified invasion of another individual’s personal privacy. The appellant is not required to prove the contrary.

Sections 14(2), (3) and (4) provide guidance in determining whether disclosure of personal information would constitute an unjustified of the 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.

The Police submit that the personal information was compiled and is identifiable as part of an investigation into a possible violation of law (section 14(3)(b)) and indicates the affected person's race and sex (section 14(3)(h)). The Police submit that the information is also highly sensitive (section 14(2)(f)) and may unfairly damage the reputation of the affected person (section 14(2)(i)).

The Police submit that the personal information in the record was compiled and is identifiable as part of an investigation into a possible violation of law (the Biting Dog by-law and the Dog Owner's Liability Act). I find that the presumption in section 14(3)(b) applies.

The appellant submits that disclosure of the record may help him to decide what actions to take in order to recover his damages and thus has indirectly raised the application of section 14(2)(d) (fair determination of rights).

The affected person states his concern that the information, if disclosed, will be used to harass the family. He submits that disclosure of the record could expose him (and his family) unfairly to pecuniary or other harm (section 14(2)(e)).

As I have indicated previously, a factor or combination of factors under section 14(2) cannot rebut a presumption under section 14(3) (Order M-170). I find that sections 14(4) and 16 do not apply in the circumstances of this case. Accordingly, I find that the personal information is exempt under section 38(b).

ORDER:

I uphold the decision of the Police.

Original signed by: _____
Mumtaz Jiwan
Inquiry Officer

April 11, 1997