



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

# **ORDER M-932**

**Appeal M\_9700018**

**York Regional Police Services Board**



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## **NATURE OF THE APPEAL:**

The York 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 the complete investigation file relating to a motor vehicle accident. The Police identified the responsive records and granted partial access to them. The Police denied access to the remaining records, in whole or in part, on the basis of the presumption in section 14(3)(b) (possible violation of law) of the Act.

The requester (now the appellant) appealed the decision to deny access. The appellant represents a company facing a lawsuit launched by the driver of the only vehicle involved in the accident.

The records which remain at issue, in part or in whole, consist of the following:

- Records 1-6 (police officers' notes)
- Records 7-8 (call history record)
- Records 11-13 (CPIC printout)
- Record 17 (police computer e-mail)
- Records 18-24 (witness statements)

This office provided a Notice of Inquiry to the appellant, the Police, and the driver of the vehicle and two witnesses (the affected persons). Representations were received from the appellant and the Police.

## **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 views or opinions of another individual about the individual. I have reviewed the records and I find that they contain the personal information of the affected persons. I find that the records do not contain the personal information of the appellant.

Section 14(1) of the Act prohibits the Police from disclosing personal information except in the circumstances listed in sections 14(1)(a) through (f). Of these, only section 14(1)(f) could apply in this appeal. It permits disclosure if it "does not constitute an unjustified invasion of personal privacy".

Disclosing the types of personal information listed in section 14(3) is presumed to be an unjustified invasion of personal privacy. If one of the presumptions applies, the Police can disclose the personal information only if it falls under section 14(4) or if section 16 applies to it.

If none of the presumptions in section 14(3) apply, the Police must consider the factors listed in section 14(2) as well as all other relevant circumstances.

The Police submit that the personal information was compiled and is identifiable as part of an investigation into a possible violation of law (the Criminal Code) and therefore, the presumption in section 14(3)(b) applies.

The appellant submits that his client is the defendant in a lawsuit and needs access to the records. In this manner, the appellant has raised the possible application of section 14(2)(d) (fair determination of rights).

I have carefully reviewed the records together with the representations of the parties. I find that the personal information in the records was compiled and is identifiable as part of an investigation into a possible violation of law. I find therefore, that the presumed unjustified invasion of personal privacy found in section 14(3)(b) applies. With respect to the relevance of section 14(2)(d) raised by the appellant, I have indicated previously that factors favouring disclosure under section 14(2) of the Act cannot be used to rebut the presumption. None of the information in the records falls within section 14(4) of the Act and the appellant has not raised section 16. Accordingly, I find that disclosure of the information in the records would constitute an unjustified invasion of personal privacy under section 14(1) of the Act.

**ORDER:**

I uphold the decision of the Police.

Original signed by: \_\_\_\_\_  
Mumtaz Jiwan  
Inquiry Officer

\_\_\_\_\_ April 24, 1997