



**Information and Privacy
Commissioner/Ontario**

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

ORDER M-1070

Appeal M-9700261

Waterloo Regional Police Services Board



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NATURE OF THE APPEAL:

The Waterloo 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 witness statements and copies of photographs taken at the scene of a specified motor vehicle accident in which a pedestrian (the deceased) was fatally injured. The requester represents the family members of the deceased.

After receiving representations from the witnesses, the Police granted partial access to the records. The Police denied access to pages 1 and 2 in their entirety and to pages 3 and 6-10 in part, pursuant to the exemptions provided under sections 8(1) and (2) (law enforcement) and 14(1) (invasion of privacy) of the Act.

The requester appealed the denial of access. The photographs which formed part of the request are not at issue in this appeal. Pages 1 and 2 and the severed portions of pages 3 and 6-10 constitute the record that remains at issue in this appeal.

This office provided a Notice of Inquiry to the requester, now the appellant, the Police and four witnesses whose interests may be affected by disclosure of the information in the record (the affected persons). Representations were received from the Police only.

DISCUSSION:

PERSONAL INFORMATION AND 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 that individual's name, address and date of birth. I have reviewed the information in the record and I find that the severed portion of page 3 contains the personal information of the deceased only while pages 1, 2 and 6-10 contain the personal information of the affected persons. The record does not contain the personal information of the appellant.

Once it has been determined that a record contains personal information, section 14(1) of the Act prohibits disclosure of this information to any person other than the individual to whom the information relates except in certain circumstances listed under the section.

Section 14(1)(f) provides that a head shall refuse to disclose personal information to any person other than the individual to whom the information relates except if the disclosure does not constitute an unjustified invasion of personal privacy.

Sections 14(2) and (3) of the Act provide guidance in determining whether disclosure of personal information would result in an unjustified invasion of the personal privacy of the individual to whom the information relates. Section 14(2) provides some criteria for the head to consider in making this determination. Section 14(3) lists the types of information whose disclosure is presumed to constitute an unjustified invasion of personal privacy.

The only way in which a section 14(3) presumption can be overcome is if the personal information at issue falls under section 14(4) of the Act or where a finding is made under section 16 of the Act that there is a compelling public interest in disclosure of the information which clearly outweighs the purpose of the section 14 exemption.

The Police submit that the presumption in section 14(3)(b) applies in the circumstances of this appeal to all the pages in the record. The Police have also raised the application of sections 14(2)(e), (f) and (h) to pages 1 and 2. I will first consider the application of section 14(3)(b) of the Act.

The Police submit that the information in the record was compiled and is identifiable as part of an investigation into an allegation of an offence under the Highway Traffic Act.

I have reviewed the record and I find that the presumed unjustified invasion of personal privacy in section 14(3)(b) applies to the personal information in the record because it was clearly "compiled" and is "identifiable" as part of an investigation into a possible violation of law, i.e. the Highway Traffic Act.

I find that sections 14(4) and 16 do not apply to the record and it is, therefore, exempt under section 14. Because I have found that section 14 applies, I need not consider the application of the other exemptions raised by the Police.

ORDER:

I uphold the decision of the Police.

Original signed by: _____
Mumtaz Jiwan
Inquiry Officer

January 30, 1998