



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

ORDER MO-1188

Appeal MA-980278-1

London Police Services Board



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NATURE OF THE APPEAL:

The London Police Services Board (the Police) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act). The request was for records relating to a specified incident in which the requester was involved. The Police located records responsive to the request and, following the notification of the complainant, who is an affected person under section 21 of the Act, decided to disclose portions of them to the requester. Access to the severed portions of the records was denied pursuant to the following exemptions contained in the Act:

- law enforcement - sections 8(1)(d) and 8(2)(a)
- facilitate commission of a crime - section 8(1)(l)
- invasion of privacy - section 38(b)
- discretion to refuse requester's own information - section 38(a)

The requester, now the appellant, appealed the decision of the Police.

During the mediation of the appeal, the appellant advised that he was no longer seeking access to certain numbered codes which appeared in the records. As a result, the Police indicated that they were no longer claiming the application of sections 8(1)(l) and 8(2)(a) to the records. The appellant also accepted that portions of one page of the records contained information which is not responsive to his request. He indicated, therefore, that he was no longer seeking access to this portion of the record.

A Notice of Inquiry was sent to the appellant, the Police and the affected person. Representations were received from the Police and the affected person. The appellant submitted that his previous correspondence with this office should be considered in the inquiry. The affected person objects to the disclosure of any personal information which relates to him/her.

RECORDS:

The records at issue consist of the undisclosed portions of a one-page document entitled "London Police Complaint Hardcopy" and one page of police officer's notes.

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. Both records contain the personal information of the appellant. The information which has been withheld from the appellant consists of the name, address, telephone number, sex, and date of birth of the affected person, and one sentence referring to the nature of the complaint. In my view, this information qualifies as personal information of the affected person under sections 2(1)(a), (d) and (h).

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) 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. Once a presumption against disclosure has been established, it cannot be rebutted by either one or a combination of the factors set out in 14(2).

The Police submit that the presumption in section 14(3)(b) applies. This section states:

A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy if the personal information,

was compiled and is identifiable as part of an investigation into a possible violation of law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation.

The Police submit that the type of complaint made by the affected person is a legitimate law enforcement matter, and an investigation was initiated into a possible violation of law (the Criminal Code). The records were compiled and are identifiable as part of the investigation, and I am satisfied that the requirements of section 14(3)(b) have been met.

I find that neither section 14(4) nor section 16 are applicable to the records. Accordingly, the records are properly exempt from disclosure under sections 14(1) and 38(b) of the Act.

ORDER:

I uphold the decision of the Police.

Original signed by: _____
Holly Big Canoe

February 8, 1999

Adjudicator