



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

# **ORDER P-620**

**Appeal P-9300456**

**Ministry of the Attorney General**



80 Bloor Street West,  
Suite 1700,  
Toronto, Ontario  
M5S 2V1

80, rue Bloor ouest  
Bureau 1700  
Toronto (Ontario)  
M5S 2V1

416-326-3333  
1-800-387-0073  
Fax/Télééc: 416-325-9195  
TTY: 416-325-7539  
<http://www.ipc.on.ca>

# ORDER

## BACKGROUND:

The Ministry of the Attorney General (the Ministry) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for access to the written statements of ten individuals, with regard to a specific incident which occurred on July 25, 1992. The requester was granted access in full or in part to 616 pages responsive to the request. Access was denied in full to ten (10) pages, pursuant to section 21 of the Act. The requester appealed the Ministry's decision. During mediation, the appellant narrowed the appeal to only the decision to deny access to the ten pages denied in full.

Further mediation of the appeal was not successful, and notice that an inquiry was being conducted to review the Ministry's decision was sent to the appellant and the Ministry. Representations were received from the Ministry only.

The records at issue in this appeal consist of eight (8) pages of biographical information regarding individuals, one doctor's note, and one page of an individual's statement. In its representations, the Ministry indicated that it was no longer applying an exemption to the doctor's note. However, the Ministry has not yet disclosed this record and the individual named in this record has not been notified of the request, the appeal, or the Ministry's decision to disclose. Section 21 is a mandatory exemption and, given the particular circumstances of this appeal, I will consider the doctor's note as a record which is still at issue in this appeal.

## ISSUES:

The issues arising in this appeal are:

- A. Whether the information contained in the records qualifies as "personal information" as defined in section 2(1) of the Act.
- B. If the answer to Issue A is yes, whether the mandatory exemption provided by section 21 of the Act applies to the records such that they must be withheld from disclosure.

## SUBMISSIONS/CONCLUSIONS:

**ISSUE A: Whether the information contained in the records qualifies as "personal information" as defined in section 2(1) of the Act.**

Section 2(1) of the Act states, in part, that:

"personal information" means recorded information about an identifiable individual, ...

Having reviewed the records, in my view, they all, including the doctor's note, contain information which qualifies as personal information. In all instances, the information relates to individuals other than the appellant.

[IPC Order P-620/February 2, 1994]

**ISSUE B: If the answer to Issue A is yes, whether the mandatory exemption provided by section 21 of the Act applies to the records such that they must be withheld from disclosure.**

Section 21(1) of the Act prohibits the disclosure of personal information to any person other than the individual to whom the information relates, except in certain circumstances listed under the section.

In my view, the only exception to the section 21(1) mandatory exemption which has potential application in the circumstances of this appeal is section 21(1)(f), which reads as follows:

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.

Because section 21(1)(f) is an exception to the mandatory exemption which prohibits the disclosure of personal information, in order for me to find that section 21(1)(f) applies, I must find that disclosure of the personal information would **not** constitute an unjustified invasion of personal privacy.

Sections 21(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.

Having found that the records contain information which qualifies as personal information, and in the absence of any representations weighing in favour of finding that disclosure of the personal information would **not** constitute an unjustified invasion of personal privacy, I find that the exception contained in section 21(1)(f) does not apply, and the records are properly exempt from disclosure under section 21 of the Act.

**ORDER:**

1. I uphold the Ministry's decision not to disclose the records to the appellant.
2. I order the Ministry not to disclose the doctor's note to the appellant.

Original signed by: \_\_\_\_\_  
Canoe

February 2, 1994 \_\_\_\_\_ Holly Big

Inquiry Officer