



Information and Privacy
Commissioner/Ontario

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

ORDER P-904

Appeal P-9400595

Ministry of the Solicitor General and Correctional Services



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NATURE OF THE APPEAL:

This is an appeal under the Freedom of Information and Protection of Privacy Act (the Act). The Ministry of the Solicitor General and Correctional Services (the Ministry) received a request for access to a report prepared following an investigation into allegations of harassment made by the requester. Pursuant to section 28(1)(b) of the Act, the Ministry notified eight individuals who were named in the report, seeking their representations regarding the disclosure of the report to the requester. Three of these individuals consented to the disclosure of the report, three did not consent and two did not reply.

The Ministry decided to grant the requester partial access to the report, withholding under section 49(b) of the Act those portions which contained the personal information of the individuals who did not consent to disclosure. One of these individuals then appealed the Ministry's decision to grant partial access to the report, and asked that he be provided with a copy of the report in order to satisfy himself that none of his personal information was being disclosed. The Ministry refused to provide him with a copy of the report.

A Notice of Inquiry was provided to the Ministry, the appellant and the original requester. Representations were received from the appellant only.

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 any identifying number assigned to the individual and 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.

I have reviewed the investigation report which comprises the record at issue in this appeal and find that it contains the personal information of the appellant, the original requester and several other identifiable individuals. The portions of the report which the Ministry proposes to disclose in response to the original request do not, however, contain any personal information of the appellant.

Section 47(1) of the Act gives individuals a general right of access to their own personal information held by a government body. Section 49 provides a number of exceptions to this general right of access.

Under section 49(b) of the Act, where a record contains the personal information of both the original requester and other individuals and the Ministry determines that the disclosure of the information would constitute an unjustified invasion of another individual's personal privacy, the Ministry has the discretion to deny the requester access to that information. In this case, the Ministry proposed to grant the requester access only to those portions of the record which do not contain the personal information of the appellant.

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. If none of the presumptions contained in section 21(3) apply, the institution must consider the application of the factors listed in section 21(2) of the Act, as well as all other considerations that are relevant in the circumstances of the case.

The Ministry determined that, balancing all of the factors present in the circumstances of the request, the disclosure of the personal information of the appellant which is contained in the report would constitute an unjustified invasion of his personal privacy and decided not to release it to the original requester. The Ministry exercised its discretion to deny the original requester access to the personal information of the appellant which is contained in the report.

In his representations, the appellant submits that, although he has not been provided with a copy of the investigation report, he feels that it contains information which is inaccurate, unreliable and which may cause him pecuniary harm.

I have reviewed the record in the form which the Ministry proposes to disclose to the original requester and the representations of the appellant. I find that the disclosure of the information contained in the severed version of the investigation report would not constitute an unjustified invasion of the personal privacy of the appellant as it does not contain any of his personal information. Accordingly, section 49(b) does not apply to exempt from disclosure to the original requester the information contained in the severed version of the investigation report.

ORDER:

I uphold the decision of the Ministry.

Original signed by: _____
Donald Hale
Inquiry Officer

_____ April 12, 1995

POSTSCRIPT:

Section 28(2) of the Act describes the requirements of the notice which the Ministry is required to provide to an affected person whose personal information is contained in a record which is being considered for disclosure to a requester. The Act requires that the Ministry provide the affected person with "a description of the contents of the record or part thereof that relate to that person" in order to inform the affected person of the nature of the information which is under consideration for disclosure. In this appeal, a more detailed description of the contents of the severed record which was proposed to be disclosed, or the release to the appellant of the record in its severed form, may have resolved the concerns of the appellant and obviated

the need for this appeal.