



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

ORDER P-1059

Appeal P-9500390

Ministry of Health



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/Téléco: 416-325-9195
TTY: 416-325-7539
<http://www.ipc.on.ca>

NATURE OF THE APPEAL:

The Ministry of Health (the Ministry) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for access to a specific memo, authored by one or more named individuals. The requester believed the memo contains certain allegations about her. The Ministry located a one-page memorandum signed by seven individuals, and denied access to it pursuant to the following exemption in the Act.

- invasion of privacy - section 49(b)

The requester appealed the Ministry's decision. A Notice of Inquiry was sent to the Ministry, the requester (now the appellant), and to the seven individuals who signed the memorandum (the affected parties). Representations were received from the Ministry and six of the affected parties.

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 record and I find that it contains personal information which relates to the appellant and to other individuals.

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 appellant 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.

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. Where one of the presumptions found in section 21(3) applies to the personal information found in a record, the only way such a presumption against disclosure can be overcome is where the personal information falls under section 21(4) or where a finding is made that section 23 of the Act applies to the personal information.

If none of the presumptions contained in section 21(3) apply, the Ministry 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.

In its representations, the Ministry argues that the records contain information which is highly sensitive (section 21(2)(f)) and which was supplied in confidence by the affected persons (section 21(2)(h)), which are considerations favouring the non-disclosure of personal information.

The affected persons also submit that sections 21(2)(f) and (h) apply in the circumstances of this appeal.

I have reviewed the record at issue in this appeal and make the following findings:

- (1) Portions of the record contain information which may be characterized as “highly sensitive” within the meaning of section 21(2)(f). Accordingly, I find that this consideration applies to those portions of the record.
- (2) The memorandum was supplied in confidence by the parties to the Ministry as contemplated by section 21(2)(h). I am satisfied that at the time the memorandum was made there was a reasonably-held expectation of confidentiality on the part of the individuals who provided the statements, and this section, therefore, applies.
- (3) Section 21(4) does not pertain to any of the information in the records. The appellant has not raised the application of section 23 to the records at issue.

I have not been provided with any evidence that any of the factors favouring disclosure are applicable in this appeal. Having considered all of the circumstances in this appeal, I find that the disclosure of the record **would** constitute an unjustified invasion of the personal privacy of the affected persons and I uphold the Ministry’s decision to deny access to it pursuant to section 49(b) of the Act.

ORDER:

I uphold the Ministry’s decision.

Original signed by: _____
Laurel Cropley
Inquiry Officer

_____ November 23, 1995