



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

ORDER P-1117

Appeal P-9500486

Ministry of the Solicitor General and Correctional Services



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NATURE OF THE APPEAL:

The appellant's mother died unexpectedly in hospital in 1993. The coroner ordered an autopsy, which was carried out by a pathologist. Ultimately a coroner's inquest was also held. The appellant and other members of his family have sued the hospital and several members of its staff for damages arising from the death.

After the completion of the coroner's inquest, the appellant filed a complaint with the Ontario Coroners' Council (the Council) against four coroners in connection with the investigation and inquest into the death of the appellant's mother. The Council found no evidence of neglect, incompetence or misbehaviour on the part of any of the coroners.

Subsequently, the appellant submitted a request under the Freedom of Information and Protection of Privacy Act (the Act) for records relating to the Council's investigation of his complaint. He also requested any records received or sent by the Council pertaining to his mother, and to the original coroners' investigation and inquest into her death. This request was sent to the Ministry of the Solicitor General and Correctional Services (the Ministry).

The Council is listed as a separate institution under the Act, whose head is the Solicitor General and Minister of Correctional Services. The Ministry has confirmed that it acted on the Council's behalf in the processing of the request and the appeal.

Prior to the issuance of the Ministry's decision on access to the requested records, the appellant's sister wrote to the Ministry indicating that she does not object to disclosure of her personal information to the appellant.

The Ministry granted full access to a large volume of records and partial access to others. The Ministry also denied access to a number of records in their entirety. The appellant filed an appeal of the Ministry's denial of access to records partly or fully withheld from disclosure. During the mediation stage of this appeal, the appellant indicated that he does not require access to some records originally identified by the Ministry, and these are not at issue.

Also during mediation, the Ministry indicated that, in its view, the records described in its index as pages FI0063 and FI0069/69A do not belong in the file pertaining to the Council's investigation. Rather, the Ministry indicates that they pertain to unrelated matters being dealt with by the judge who headed the Council's investigation. Therefore, the Ministry indicated that they are not responsive to the appellant's request. The appellant has agreed that he does not require access to these records, and they are not at issue.

The records which are at issue consist of correspondence and draft correspondence, handwritten notes, parts of the Council's Preliminary Investigation Report and an addendum to the report, and the responses of the four coroners to the complaint. The exemptions which remain at issue are:

- advice or recommendations - section 13(1)
- law enforcement - section 14(2)(a)
- discretion to refuse requester's own information - section 49(a)

- invasion of privacy - sections 21(1) and 49(b).

The records at issue are described in more detail in Appendix "A" to this order, and the exemptions claimed for each record are also specifically identified.

A Notice of Inquiry was sent to the Ministry, the appellant and the four coroners. Based on comments made by the appellant, the Notice of Inquiry raised the possible application of the "public interest override" in section 23 of the Act. In response to the Notice of Inquiry, representations were submitted by all parties. The Ministry has confirmed that the representations it has submitted are also made on behalf of the Council.

DISCUSSION:

PERSONAL INFORMATION/DISCRETION TO DENY ACCESS TO REQUESTER'S OWN INFORMATION

Under section 2(1) of the Act, "personal information" is defined, in part, to mean recorded information about an identifiable individual, including 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 records to determine whether they contain personal information, and if so, to whom the personal information relates.

Many of the records contain medical information and other information of a personal nature about the appellant's deceased mother. Section 2(2) provides that "personal information does not include information about an individual who has been dead for more than thirty years." Because the appellant's mother died in 1993, section 2(2) does not apply. I find that the information I have just described constitutes her personal information.

Because of the personal nature of their involvement in this matter, I find that references to the appellant and his sister constitute their personal information. With regard to the four coroners, in my view, the fact that these records pertain to a complaint against them removes the information about them in the records from the usual "professional" context and I find that such information constitutes their personal information. The same applies to the doctor who conducted the initial autopsy, which was later found to be inaccurate. Some of the records contain his personal information.

The records also refer to other individuals who testified at the inquest, and individuals who were contacted by the investigators for the Council, and I find that, with several exceptions, these references qualify as their personal information. The exceptions are references to individuals acting purely in a professional capacity, including counsel and the Police Detective who assisted with the Council investigation.

To summarize, I find that Records 1, 2, 3, 5, 7, 8, 9, 12, 13, 14, 18 and 19 contain personal information pertaining to the appellant and other individuals.

I also find that Records 4, 6, 10, 11, 15, 16 and 17 contain the personal information of individuals other than the appellant. These records do not contain the appellant's personal information.

In addition, I find that Records 20 and 21 do not contain personal information.

With respect to the group of records which contain the appellant's personal information, it is important to note that 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(a) of the Act, the Ministry has the discretion to deny access to an individual's own personal information in instances where certain exemptions would otherwise apply to that information. This section states as follows:

A head may refuse to disclose to the individual to whom the information relates personal information,

where section 12, **13, 14**, 15, 16, 17, 18, 19, 20 or 22 would apply to the disclosure of that personal information. (emphases added)

Accordingly, for records which contain the appellant's personal information, and for which the Ministry has claimed section 13(1) or 14(2)(a), I will consider whether these sections apply in order to determine whether the records are exempt under section 49(a).

ADVICE OR RECOMMENDATIONS

The Ministry claims that the following records qualify under this exemption: Records 1, 2, 7, 8 and 9. These records consist of letters from the Council to the Solicitor General communicating the results of Council's investigation of the appellant's complaint. The Ministry describes these letters as "drafts" despite the fact that several of them were signed by the members of the Council.

The "advice or recommendations" exemption appears in section 13(1) of the Act, which states:

A head may refuse to disclose a record where the disclosure would reveal advice or recommendations **of a public servant, any other person employed in the service of an institution or a consultant retained by an institution.** (emphasis added)

The Ministry's representations do not specify who prepared these letters, nor do they indicate the nature of the relationship between the author and the Ministry. However, it is clear from the part of section 13(1) which I have highlighted, above, that the nature of this relationship is a crucial factor in determining whether this exemption applies.

The Council exists by virtue of section 6(1) of the Coroners Act, which states:

There shall be a Coroners' Council composed of a judge of the Ontario Court (General Division) designated by the Chief Justice of the Ontario Court and not more than four other persons appointed by the Lieutenant Governor in Council, of whom at least one shall be a legally qualified medical practitioner.

Section 6(2) goes on to specify that employees of the Council are to be employed under the Public Service Act. However, this statement does not appear to include the Council members themselves.

Even if I assume that the letters were prepared by a member of the Council, I have not been provided with sufficient information to justify a conclusion, in this appeal, that such an individual is "a public servant, any other person employed in the service of an institution or a consultant retained by an institution" as required by section 13(1).

Accordingly, I find that none of the records for which section 13(1) has been claimed qualifies for exemption under that section.

LAW ENFORCEMENT

The Ministry claims that the following records qualify under this exemption: Records 1, 2, 7, 8, 9, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 21.

This exemption appears in section 14(2)(a) of the Act, which states:

A head may refuse to disclose a record,

that is a report prepared in the course of law enforcement, inspections or investigations by an agency which has the function of enforcing and regulating compliance with a law.

In order for a record to qualify for exemption under this section, the matter to which the record relates must first satisfy the definition of the term "law enforcement" found in section 2(1) of the Act.

This definition states as follows:

"law enforcement" means,

- (a) policing,
- (b) investigations or inspections that lead or could lead to proceedings in a court or tribunal if a penalty or sanction could be imposed in those proceedings, and
- (c) the conduct of proceedings referred to in clause (b).

In addition, for a record to qualify for exemption under section 14(2)(a) of the Act, the institution must satisfy each part of the following three part test:

1. the record must be a report; **and**
2. the report must have been prepared in the course of law enforcement, inspections or investigations; **and**
3. the report must have been prepared by an agency which has the function of enforcing and regulating compliance with a law.

With respect to the definition of “law enforcement”, several provisions of the Coroners Act must be considered.

Section 7 of the Coroners Act sets out the functions of the Council. Section 7(1)(c) mandates investigations such as the one conducted as a result of the appellant’s complaint, and requires the Council “... to make such recommendations to the Minister with respect thereto as it sees fit”. In my view, the power to recommend is not the same as the power to impose sanctions, and I find that the Council’s investigation does not satisfy the definition of “law enforcement”.

With respect to the coroner’s inquest referred to in the records, section 31(2) of the Coroners Act states that “[t]he jury shall not make any finding of legal responsibility or express any conclusion of law ...”. In my view, this makes it clear that the inquest does not satisfy the definition of “law enforcement”. In addition, there is nothing in the Coroners Act to bring the coroner’s investigation within the definition of “law enforcement”.

On this basis alone, I would be justified in concluding that section 14(2)(a) does not apply.

In addition, however, I note that under part 3 of the test, the records must have been prepared by an agency that has the function of enforcing and regulating compliance with a law. In that regard, I note that the Coroners Act does not set standards of behaviour for coroners or other individuals. Section 4(1)(e) of the Coroners Act requires the Chief Coroner to “prepare, publish and distribute a code of ethics for the guidance of coroners”, but this code is not given the force of law. Therefore, I find that neither coroners, nor the Council, can be said to “enforce or regulate compliance with a law” within the meaning of section 14(2)(a).

Accordingly, in my view, none of the records for which section 14(2)(a) has been claimed qualifies for exemption under that section.

Earlier in this order, I indicated that I would consider whether records containing the appellant’s personal information qualify for exemption under section 13(1) or 14(2)(a) in order to determine whether they are exempt under section 49(a). Since none of the records for which section 13(1) and/or section 14(2)(a) has been claimed qualifies for exemption under these sections, I also conclude that section 49(a) has no application in the circumstances of this appeal.

INVASION OF PRIVACY

I have already found that Records 1, 2, 3, 5, 7, 8, 9, 12, 13, 14, 18 and 19 contain personal information pertaining to the appellant and other individuals. I have also found that Records 4, 6, 10, 11, 15, 16 and 17 contain the personal information of individuals other than the appellant, and that they do not contain the appellant's personal information.

As previously noted, 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 institution determines that the disclosure of the information would constitute an unjustified invasion of another individual's personal privacy, the institution has the discretion to deny the requester access to that information. I will consider whether this exemption applies to Records 1, 2, 3, 5, 7, 8, 9, 12, 13, 14, 18 and 19.

In addition, where a record does not contain the appellant's personal information but does contain personal information of another individual or individuals, section 21(1) of the Act prohibits disclosure of this information unless one of the exceptions listed in that section is applicable. In this appeal, the appellant's sister has consented to disclosure of her personal information, and the exception in section 21(1)(a) would therefore apply, permitting the disclosure of that information. The only other exception which could apply is section 21(1)(f), which permits disclosure if it "... does not constitute an unjustified invasion of personal privacy". I will consider whether section 21(1) applies to Records 4, 6, 10, 11, 15, 16 and 17.

Part of Record 13 consists of a letter from one of the coroners to the appellant. Given that this letter was sent to the appellant previously, I am unable to conclude that its disclosure to the appellant would constitute an unjustified invasion of personal privacy. Therefore, this part of Record 13 should be disclosed and I will not consider it further in this discussion.

In considering the possible application of sections 49(b) and 21(1), 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 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 argues that the presumptions in sections 21(3)(b) and (d), and the factors in sections 21(2)(e), (f) and (h) apply, and that on this basis, disclosure of the information which has been withheld would constitute an unjustified invasion of personal privacy.

The representations submitted by the coroners also refer to sections 21(2)(e), (f) and (h).

The appellant's submissions suggest the possible relevance of the factors favouring disclosure in sections 21(2)(a) and 21(2)(d).

My review of the records indicates that the presumption in section 21(3)(a) may apply to some of the information.

The sections referred to in the immediately preceding paragraphs state as follows:

21. (2) A head, in determining whether a disclosure of personal information constitutes an unjustified invasion of personal privacy, shall consider all the relevant circumstances, including whether,
 - (a) the disclosure is desirable for the purpose of subjecting the activities of the Government of Ontario and its agencies to public scrutiny;
 - (d) the personal information is relevant to a fair determination of rights affecting the person who made the request;
 - (e) the individual to whom the information relates will be exposed unfairly to pecuniary or other harm;
 - (f) the personal information is highly sensitive;
 - (h) the personal information has been supplied by the individual to whom the information relates in confidence;
- (3) A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy where the personal information,
 - (a) relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation;
 - (b) 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;
 - (d) relates to employment or educational history.

I will begin by considering the possible application of the presumptions established by section 21(3).

Section 21(3)(a)

The records contain a substantial amount of medical information about the appellant's mother, primarily relating to the circumstances leading up to her death. Normally, the presumed unjustified invasion of personal privacy in section 21(3)(a) applies to this information. However, in this case, this information has been provided to the appellant and other members of his family on several previous occasions. Under these circumstances, it would not be reasonable to apply this presumption, and I find that it does not apply.

Section 21(3)(b)

The arguments of the Ministry in support of the application of this presumption focus on the provisions of the Coroners Act and the code of conduct for coroners. They argue that investigations into possible breaches of these provisions are investigations "into a possible violation of law".

I do not agree with this view. As noted above in my discussion of section 14(2)(a), the Coroners Act does not set standards of behaviour for coroners or other individuals. Section 4(1)(e) of the Coroners Act requires the Chief Coroner to "prepare, publish and distribute a code of ethics for the guidance of coroners", but this code is not given the force of law. Because the Coroners Act does not set out standards which may have been breached, I find that the Council was not investigating a possible breach of that statute. Moreover, although the Council may have been investigating possible breaches of the code of conduct, I find that this was not an investigation into a possible violation of law, because the code does not have the force of law.

Therefore, I find that section 21(3)(b) does not apply.

Section 21(3)(d)

The Ministry argues that "... release of the exempted information would reveal personal information relating to the employment history of the [coroners] and other individuals referenced in the records."

I find that Record 10 constitutes the employment history of the individual referred to in that record, and this presumption applies to Record 10 in its entirety.

I also find that Records 6 and 14 contain information which describes the past employment of one of the coroners and another individual, and the presumption applies to this information as well.

However, in my view, investigations of alleged improper work-related behaviour are not part of the employment history of the individuals involved because they fall outside the normal scope of such individuals' duties. Therefore, I find that this presumption does not apply to information in the records about the coroners, with the exception of the information about their past employment mentioned in the previous paragraph.

I will now consider the possible relevance of factors under section 21(2), beginning with factors favouring privacy protection.

Section 21(2)(e)

With respect to this section, the Ministry submits that "... the exempt information will likely be utilized by the appellant and his family in their efforts to discredit and damage the professional reputations of the [coroners]".

Similarly, the coroners argue that the Council records "... could be used by the requesters to damage our personal reputations as coroners, our personal reputations as medical practitioners and impact on our livelihood".

Given that the investigation found no evidence of any neglect, incompetence or misbehaviour by the coroners, I am puzzled by these submissions. Moreover, neither the Ministry nor the coroners addressed the issue of why, if established, such "harm" would be unfair. This is a fundamental aspect of section 21(2)(e).

For these reasons, I find that section 21(2)(e) does not have a significant bearing on the application of sections 21 and 49(b) in the circumstances of this appeal.

Section 21(2)(f)

The Ministry submits that the Council investigation is of a highly sensitive nature, particularly with regard to the coroners under investigation.

The coroners make a similar argument, based on the public nature of their duties as coroners, the possible effect of disclosure on their personal activities, and the possible impact on public confidence in coroners generally. With respect to information about the coroners in the records, I am of the view that, if disclosure is likely to cause them considerable personal distress, section 21(2)(f) applies. In my view, the public nature of their duties and the possible impact on public confidence in coroners generally are not relevant to this determination.

In my view, disclosure of information pertaining to the complaint, as well as the coroner's investigation and the inquest, would likely cause considerable personal distress to the coroners and other individuals. For this reason, I find that the information in the records provided by the coroners, members of the hospital staff (some of whom have been named as defendants in the appellant's lawsuit), and other individuals who gave statements to the Council investigator, is highly sensitive and section 21(2)(f) is a relevant consideration with respect to that information.

Section 21(2)(h)

The Ministry submits that the information in the records was provided in confidence by the coroners. The coroners also state that they expected the information they supplied to be treated confidentially.

In the circumstances of this case, I am persuaded that the coroners and others who provided information to the Council did so with an expectation that it would be kept confidential.

Therefore, I find that section 21(2)(h) is a relevant consideration with respect to information supplied by the coroners and other individuals interviewed during the Council investigation.

I will now consider the factors under section 21(2) which, if applicable, would favour disclosure.

Section 21(2)(a)

This factor must be considered where the disclosure is "... desirable for the purpose of subjecting the activities of the Government of Ontario and its agencies to public scrutiny". The involvement of the news media in this case suggests a degree of public interest in the circumstances surrounding the appellant's mother's death. In my view, however, any public interest in those circumstances was satisfied by the holding of a public coroner's inquest. By contrast, the appellant's interest in the coroner's investigation and inquest, and the Council investigation, is essentially a private one.

I am not persuaded that **public** scrutiny of the coroners or the Council is "desirable", and I find that section 21(2)(a) does not have a significant bearing on application of sections 21 and 49(b) in the circumstances of this appeal.

Section 21(2)(d)

The fact that litigation has been undertaken by the appellant and his family suggests the possible relevance of this section, which must be considered when disclosure is "relevant to a fair determination of rights affecting the person who made the request". However, I have not been provided with sufficient information to link disclosure of the withheld information with any legal right of the appellant. I find that section 21(2)(d) does not have a significant bearing on application of sections 21 and 49(b) in the circumstances of this appeal.

Adequate Degree of Disclosure

The preamble to section 21(2) indicates that, in deciding whether disclosure would be an unjustified invasion of personal privacy, "all the relevant circumstances" should be considered. In my view, there is a relevant circumstance which is not specifically listed in section 21(2).

This factor, which favours disclosure, was first identified in Order P-1014, which dealt with an investigation of alleged workplace harassment. It relates to the fairness of administrative processes, and the need for a degree of disclosure to the parties which is consistent with the principles of natural justice. In my view, this factor also applies to proceedings before the Council. Like those conducting workplace harassment investigations, the Council is charged with the investigation of work-related complaints, and has the power to make recommendations which can have serious repercussions for the individuals under investigation.

In this case, information relating to the disposition of the complaint, such as the coroners' responses to the complaint, parts of the investigation report prepared for the Council, and a number of "will say" statements of those interviewed in connection with the Council's investigation, were withheld from the appellant.

In Corporation of the City of Hamilton v. Tom Wright, Information and Privacy Commissioner et al. (February 9, 1995), Hamilton Doc. D246/93, the Ontario Court (General Division) Divisional Court upheld the Inquiry Officer's finding in Order M-82, which related to a workplace harassment investigation. The Court stated that, without adequate disclosure, "the complainant might be left wondering whether his complaint had been properly investigated". In my view, adequate disclosure is a fundamental requirement in a proceeding such as the Council investigation. Both the complainant and the respondents in such a proceeding are entitled to a degree of disclosure which permits them to understand the finding that was made and the reasons for the decision.

In the circumstances of this appeal, I find that the factor requiring adequate disclosure is a relevant circumstance with respect to the personal information in the records which is directly related to the subject matter of the investigation and the Council's findings.

Conclusions

I have found that the presumed unjustified invasion of personal privacy in section 21(3)(d) applies to Record 10, and to parts of Records 6 and 14.

As noted above, where a presumption in section 21(3) applies, it can only be rebutted by the application of section 21(4) or section 23. I find that section 21(4) does not apply, and the information which falls under section 21(3)(d) is exempt. I will consider, below, whether the "public interest override" in section 23 applies to permit disclosure of this information despite the application of the exemption.

I have found that the factor favouring privacy protection in section 21(2)(f) is a relevant circumstance with respect to information in the records provided by the coroners, members of the hospital staff and other individuals who gave statements to the Council investigator. I also found that the factor favouring privacy protection in section 21(2)(h) is a relevant circumstance with respect to information supplied by the coroners and other individuals interviewed during the Council investigation. In addition, I found that the unlisted factor favouring disclosure, referred to as "Adequate Degree of Disclosure", is a relevant circumstance with respect to information in the records which is directly related to the subject matter of the investigation and the Council's findings.

I have weighed the applicable factors favouring disclosure against those favouring privacy protection and I find that, for almost all of the withheld information in the records not subject to a presumption, the factor relating to "Adequate Degree of Disclosure" outweighs the factors favouring privacy protection, and disclosure would not be an unjustified invasion of personal privacy.

However, disclosure of some personal information in some of the records **would** be an unjustified invasion of personal privacy. This information consists of:

- the names of individuals **other than** members of the Council, the Council's investigators, the coroners, the appellant, the appellant's mother and the appellant's sister;

- the home addresses and telephone numbers of individuals other than the appellant and his sister;
- other personal information in the records which is not related to the subject matter of the investigation and the Council's findings.

In my view, disclosure of this information is not required in order to permit the appellant to understand the Council's findings and the reasons for its decision. Therefore, I find that the factors in sections 21(2)(f) and (h) outweigh the factor favouring disclosure, and the information described above is exempt. Section 21(1) applies to this information in records which do not contain the appellant's personal information, and section 49(b) in those which do.

I will now summarize my findings. As noted above, based on the presumption in section 21(3)(d), Record 10 is exempt in its entirety, as are parts of Records 6 and 14. I also find that parts of Records 6, 11, 12, 13, 14, 15, 16, 17, 18 and 19 are exempt, based on the application of sections 21(2)(f) and (h), as discussed above. To indicate what information is exempt in records for which partial disclosure will be ordered, I have highlighted the exempt information in yellow on the copies of these records which are being sent to the Ministry's Freedom of Information and Privacy Co-ordinator with a copy of this order. Records 1, 2, 3, 4, 5, 7, 8, 9, 20 and 21 do not contain exempt information, and they should be disclosed in their entirety.

Public Interest in Disclosure

In his representations, the appellant argues that section 23 applies to the information which has been exempted from disclosure. Section 23 states as follows:

An exemption from disclosure of a record under sections 13, 15, 17, 18, 20 and 21 does not apply where a compelling public interest in the disclosure of the record clearly outweighs the purpose of the exemption.

In order to meet the criteria for section 23, there must be a **public** interest in disclosure which **clearly outweighs** the purpose of the exemption. In my view, in the absence of circumstances suggesting a public interest, a request for information about a complaint, when submitted by a party to the complaint, is usually a private matter. In the circumstances of this case, I am not satisfied that there is a sufficient public interest in the Council's investigation, nor in the coroners' proceedings described in the records, to outweigh the purpose of the section 21 exemption.

Moreover, in my view, the degree of disclosure which took place at the request stage, combined with the disclosure mandated by this order, is sufficient to meet any public interest which may exist.

I find that section 23 does not apply.

ORDER:

1. I uphold the Ministry's decision to deny access to Record 10 in its entirety, and to the information in Records 6, 11, 12, 13, 14, 15, 16, 17, 18 and 19 which I have highlighted in yellow on the copies of these records which are being sent to the Ministry's Freedom of Information and Privacy Co-ordinator with a copy of this order.
2. I order the Ministry to disclose Records 1, 2, 3, 4, 5, 7, 8, 9, 20 and 21 in their entirety, and the parts of Records 6, 11, 12, 13, 14, 15, 16, 17, 18 and 19 which are **not** highlighted in yellow on the copies of these records which are being sent to the Ministry's Freedom of Information and Privacy Co-ordinator with a copy of this order, by sending them to the appellant on or before **March 12, 1996** but not before **March 7, 1996**.
3. To verify compliance with the provisions of this order, I reserve the right to require the Ministry to provide me with a copy of the records disclosed in accordance with Provision 2.

Original signed by: _____

John Higgins
Inquiry Officer

_____ February 6, 1996

**APPENDIX A
INDEX OF RECORDS AT ISSUE
Appeal P-9500486**

RECORD NUMBER	MINISTRY PAGE NUMBERS	DESCRIPTION	EXEMPTIONS CLAIMED
1	FI0016-FI0017	Draft letter from Coroners' Council (later referred to in this table as "Council") to Solicitor General re investigation findings, April 25, 1995	13(1), 14(2)(a), 21(1), 49(a) & 49(b)
2	FI0022-FI0023	Draft letter from Council to Solicitor General re investigation findings, April 25, 1995	13(1), 14(2)(a), 21(1), 49(a) & 49(b)
3	FI0028, FI0029, FI0030, FI0032 and FI0551-FI0552	3 copies of a 2 page letter to 3 coroners re investigation, December 13, 1994	21(1), 49(b); also 49(a) re page FI0552
4	FI0031	Letter from Council's law firm to Council, January 6, 1995	21(1), 49(b)
5	FI0036 & FI0037	Letter from Coroner A to Council, February 1995	21(1), 49(b)
6	FI0053-FI0055 & FI0647-FI0648	Letter from Coroner B to Council, January 10, 1995	21(1), 49(b)
7	FI0062 & FI0064	Draft letter from Council to Solicitor General, with handwritten notes, April 19, 1995	13(1), 14(2)(a), 21(1), 49(a) & 49(b)
8	FI0065-FI0068	Handwritten draft correspondence	13(1), 14(2)(a), 21(1), 49(a) & 49(b)
9	FI0070-FI0080	Draft letter from Council to Solicitor General, 2 pages in total, April 19, 1995 (record includes 4 copies of page 1 and 7 copies of page 2)	13(1), 14(2)(a), 21(1), 49(a) & 49(b)
10	FI0082 & FI0083	Resume and cover letter, undated	21(1), 49(b)

RECORD NUMBER	MINISTRY PAGE NUMBERS	DESCRIPTION	EXEMPTIONS CLAIMED
11	FI0084	Letter forwarding Record 10 to Council, April 20, 1995	21(1), 49(b)
12	FI0097-FI0100, FI0103-FI0106, FI0109-FI0151, FI0155-FI0167	Extracts of Council's Preliminary Investigation Report and attachment (some pages withheld in part only)	14(2)(a), 21(1), 49(a) & 49(b)
13	FI0168-FI0238 and FI0650-FI0719	Response of Coroner C to complaint, including appendices, dated January 12, 1995 (2 copies)	14(2)(a), 21(1), 49(a) & 49(b)
14	FI0239-FI0316 and FI0720-FI0797	Response of Coroner D to complaint, including appendices, dated January 10, 1995 (2 copies)	14(2)(a), 21(1), 49(a) & 49(b)
15	FI0317-FI0320 and FI0474	Handwritten lawyer's notes	14(2)(a), 21(1), 49(a) & 49(b)
16	FI0553-FI0554	Letter from hospital counsel to Council's law firm, February 10, 1995	14(2)(a), 21(1), 49(a) & 49(b)
17	FI0555-FI0556	Letter from hospital counsel to Council's law firm, February 13, 1995 (with fax cover page)	14(2)(a), 21(1), 49(a) & 49(b)
18	FI0626-FI0627	Letter from Coroner A to Council's law firm, February 24, 1995	14(2)(a), 21(1), 49(a) & 49(b)
19	FI0798-FI0822	"Will Say" synopses of potential witnesses re Council investigation	14(2)(a), 21(1), 49(a) & 49(b)
20	FI0823-FI0824	Referrals to Bound Appendices	14(2)(a), 21(1), 49(a) & 49(b)
21	FI0825-FI0830	Copy of the <u>Human Tissue Gift Act</u>	14(2)(a), 21(1), 49(a) & 49(b)