



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

# **ORDER P-1191**

**Appeal P-960056**

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

## **NATURE OF THE APPEAL:**

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 information relating to the payment of compensation by the Criminal Injuries Compensation Board (the Board) to the families of two murder victims. The record at issue is a summary containing the requested information which was received by the Ministry from the Board.

The Ministry denied the appellant access to the record, based on the mandatory exemption provided by section 21(1) of the Act (invasion of privacy). The appellant, representing a newspaper, appealed the Ministry's decision to deny access. The appellant also made reference to the possible application of section 23 of the Act, the "public interest override".

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

The Criminal Injuries Compensation Board is a separate institution for the purposes of the Act, whose head is the Attorney General of Ontario. The Ministry has acted on the Board's behalf in the processing of the request and the appeal in making its submissions to this office.

## **DISCUSSION:**

### **INVASION OF PRIVACY**

Under section 2(1) of the Act, "personal information" is defined to mean recorded information about an identifiable individual. The Ministry submits that the record contains information pertaining to the Board's award in favour of the families of the murder victims and that this information constitutes the family members' personal information. I agree that the information contained in the record constitutes the personal information of the family members within the meaning of section 2(1) of the Act.

Once it has been determined that a record contains personal information, section 21(1) of the Act prohibits the disclosure of this information unless one of the exceptions listed in this section applies. The only exception which might apply in the circumstances of this appeal is section 21(1)(f), which permits disclosure if it "does not constitute an unjustified invasion of personal privacy".

Sections 21(2), (3) and (4) of the Act provide guidance in determining whether disclosure of personal information would constitute an unjustified invasion of personal privacy. Where one of the presumptions 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 if 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 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 relevant circumstances in the case.

The Ministry submits that the disclosure of certain information contained in the record would reveal the medical history of two of the individuals to whom awards were made. The Ministry argues that the disclosure of this information would constitute a presumed unjustified invasion of personal privacy under section 21(3)(a) of the Act. Further, the Ministry submits that the disclosure of other information in the record would reveal information about the incomes of the family members who received payments from the Board and that the disclosure of this information would constitute a presumed unjustified invasion of personal privacy under section 21(3)(f) of the Act.

Finally, the Ministry submits that the following considerations listed in section 21(2) of the Act are relevant when balancing the privacy protection of the family members against the appellant's right of access: that the individual to whom the information relates will be unfairly exposed to pecuniary or other harm (section 21(2)(e)) and that the information is highly sensitive (section 21(2)(f)).

The appellant has not made any representations on the application of section 21(1) to the record. I find that, in the circumstances of this appeal, the disclosure of the medical and income information contained in the record would constitute a presumed unjustified invasion of the personal privacy of the family members under sections 21(3)(a) and (f). In addition, I agree with the Ministry's submission that the information contained in the remainder of the record is highly sensitive within the meaning of section 21(2)(f).

I find that section 21(4) has no application in the present appeal. In the absence of any factors weighing in favour of the disclosure of the record, or any portion of it, I find that section 21(1) applies to it, in its entirety.

#### **PUBLIC INTEREST IN DISCLOSURE**

The appellant has not made any representations on the possible application of the "public interest override" provided by section 23 of the Act beyond raising it in the initial stages of the appeal. In the absence of any submissions on the application of this section, I find that there does not exist a sufficiently compelling public interest in the disclosure of the record which would clearly outweigh the purpose of the personal privacy exemption in section 21(1). For this reason, I find that section 23 does not apply and the record is properly exempt from disclosure.

#### **ORDER:**

I uphold the Ministry's decision to deny access to the record.

Original signed by: \_\_\_\_\_  
Donald Hale

\_\_\_\_\_ May 28, 1996

Inquiry Officer