



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

ORDER P-1160

Appeal P-9500533

Ministry of the Solicitor General and Correctional Services



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NATURE OF THE APPEAL:

The Ministry of the Solicitor General and Correctional Services (the Ministry) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for access to:

1. Any invoices, plans, budgets, estimates, project plans, briefing notes (or) correspondence relating to any redecoration, renovation or alteration made to any existing facility to accommodate [a named, high-profile inmate].
2. Similar information relating to telephone or telecommunications services provided to [the same inmate].

The Ministry located a number of responsive records and denied access to them, in their entirety, claiming the application of the following exemptions contained in the Act:

- advice or recommendations - section 13(1)
- law enforcement - sections 14(1)(a) and (b)
- right to a fair trial - section 14(1)(f)
- security - sections 14(1)(j) and (k)
- facilitate commission of an unlawful act - section 14(1)(l)
- correctional record - section 14(2)(d)
- invasion of privacy - section 21(1)

The requester (now the appellant) appealed the Ministry's decision to deny access. A Notice of Inquiry was provided to the appellant, the Ministry and five individuals whose rights might be affected by the disclosure of the information contained in the records (the affected persons). Representations were received from the Ministry and two of the affected persons only. As the trial of the named inmate is now complete, the Ministry withdrew its reliance on sections 13(1); 14(1)(a), (b), (f) and (l) and 21(1). However, as section 21(1) is a mandatory exemption, I am obliged to determine whether it might apply to the records which are at issue in this appeal.

The records consist of 53 pages of correspondence, memoranda, routing memoranda and nine Ministry Issue Notes describing the Ministry's response to complaints from the public and media reports about the circumstances surrounding the confinement of the named inmate.

DISCUSSION:

CORRECTIONAL RECORD

The Ministry submits that all of the records at issue in this appeal are exempt from disclosure under section 14(2)(d) of the Act as each of them contain information about the history, supervision or release of a person under the control or supervision of a correctional authority.

In Order P-1006, Inquiry Officer Laurel Cropley determined that several Ministry Issue Notes, including two of those which are at issue in this appeal, were exempt from disclosure under

section 14(2)(d). Inquiry Officer Cropley found that these records contained detailed information relating to the steps taken by correctional authorities regarding the supervision of an inmate who was in their custody.

I have reviewed the records and find that the information contained in the Ministry Issue Notes (Pages 29-36 and 39-46) similarly relates to the history and supervision of a person under the control or supervision of a correctional authority. Specifically, these records describe in detail the inmate's criminal charges, correctional services history and the steps implemented by the Ministry to ensure his safety and security. For this reason, I find that all of Pages 29-36 and 39-46 qualify for exemption under section 14(2)(d).

INVASION OF PRIVACY

Under section 2(1) of the Act, "personal information" is defined, in part, to mean recorded information about an identifiable individual. I have examined the remaining records and find that Pages 1-28, 37, 38 and 47-54 each contain the personal information of either the inmate or one of the affected persons. None of the records contain information which pertains to the appellant.

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 the 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".

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.

The appellant did not make representations in response to the Notice of Inquiry. Having found that the records contain information which qualifies as personal information of individuals other than the appellant, 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 Pages 1-28, 37, 38 and 47-54 of the record are properly exempt from disclosure under section 21 of the Act.

Because of the manner in which I have disposed of the records above, it is not necessary for me to address the applicability of sections 14(1)(j) and (k) to them.

ORDER:

I uphold the Ministry's decision and dismiss the appeal.

Original signed by: _____ April 2, 1996
Donald Hale
Inquiry Officer