

**ORDER PO-2297**

**Appeal PA-020275-1**

**Office of the Public Guardian and Trustee**

## **NATURE OF THE APPEAL:**

The Office of the Public Guardian and Trustee (the PGT) received a request under the *Freedom of Information and Privacy Act* (the *Act*) for a copy of the entire file for 14 named deceased individuals (PGT file numbers 2741 to 2754). The PGT and the appellant agreed that the PGT would process each requested file separately.

With respect to one of the identified individuals, the PGT issued a decision advising that access to all responsive records was denied pursuant to section 13 (advice or recommendations) and section 21(1) (invasion of privacy) with reference to section 21(3)(f). In addition, the PGT advised that access to some of the information was also denied under section 22(a) (information published or available) and referred the appellant to the places where he could access that information. Finally, the PGT referred the requester to the Ministry of Consumer and Business Services as an institution that would have a greater interest in certain identified records.

The requester (now the appellant) appealed the PGT's decision.

During the mediation stage the PGT identified certain records for which section 13 was no longer claimed. The PGT also confirmed that it was relying on section 21(1) to deny access to all of the records.

Mediation did not resolve this appeal and it was transferred to the inquiry stage of the process. I sent a Notice of Inquiry to the PGT, initially, and received representations in response. I then sent the Notice of Inquiry, together with a copy of the PGT's representations, to the appellant, and received representations in response.

## **RECORDS:**

The records at issue in this appeal are the 524 pages of an identified deceased individual's estate file, (except for pages 11 and 12, which were misfiled and are not responsive records).

The PGT takes the position that section 21(1) applies to all of the pages of records. The PGT also claims that section 13(1) applies to pages 18, 19, 21, 23, 24, 38-40, 62-64, 83, 84, 87, 88, 126, 127, 146, 154, 155, 181, 191, 192, 222, 248, 249, 252-253, 255, 261, 267, 272, 281-284, 286, 287, 289, 294, 295, 315, 316, 319-331, 344, 350-353, 359-361, 371-372, 435, 439, 440, 443, 446, 450, 451, 465 and 466.

Furthermore, the PGT has identified that the section 22(a) claim is made for Records 70, 71, 73-76 and 78.

## **DISCUSSION:**

### **INFORMATION PUBLISHED OR AVAILABLE**

The PGT takes the position that Records 70, 71, 73-76 and 78 are publicly available, and therefore qualify for exemption under section 22(a). That section reads:

A head may refuse to disclose a record where,

the record or the information contained in the record has been published or is currently available to the public;

In order for a record to qualify for exemption under section 22(a), the information contained in the record must either be published or available to members of the public generally, through a regularized system of access. (See Orders P-327, P-1316, P-1387 and PO-1655.)

The PGT submits:

The identified records are available through a regularized system of access ... The requester was advised where the information is currently available. ... It is submitted that the balance of convenience favours the institution where the records at issue are available in their entirety.

The PGT then identifies the specific records and the place and method of access. These records are filed with an identified court office, which maintains a regular file system that is available to the public. The PGT also identifies the factors it considered in applying this discretionary exemption to these records.

The appellant did not address this issue in his representations.

Based on the representations of the PGT, I am satisfied that section 22(a) applies to the records for which it is claimed in this appeal.

## **PERSONAL INFORMATION**

The section 21 personal privacy exemption applies only to information which qualifies as "personal information", as defined in section 2(1) of the *Act*. "Personal information" is defined, in part, to mean recorded information about an identifiable individual, and includes the following specific types of information:

- (a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual,
- (b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,
- (c) any identifying number, symbol or other particular assigned to the individual,

- (d) the address, telephone number, fingerprints or blood type of the individual,
- (e) the personal opinions or views of the individual except where they relate to another individual,
- (f) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence,
- (g) the views or opinions of another individual about the individual, and
- (h) 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;

The PGT submits:

In this appeal, the request itself was for information about a specific individual who is deceased. Accordingly, all of the records at issue qualify as personal information under the definition in section 2(1)(h), since all of the records contain information about the deceased and each record is identified with the name of the deceased.

In addition, the records also fall under one of the subsections 2(1)(a) to (g) of the *Act*, thereby qualifying as personal information.

To the extent that a record is not identified with the deceased's name, it is submitted that the information should qualify as personal information, as the request itself identified the individual about whom the records were requested. Therefore, any record responsive to the request necessarily relates to and identifies the deceased individual.

The adjudicator has the discretion to decide whether or not information which does not fall under subsections 2(1)(a) to (h) also constitutes personal information: Order P-11. For example, photographs have also been held to constitute personal information: Order M-528; Order MO-1378 (pages 90-118, 470-479 and 497-523). Similarly, correspondence from individual third parties known by and related to the deceased should also be protected (pages 276-280), as well as correspondence to the deceased from legal counsel (pages 313-314).

The appellant concedes that much of the information may qualify as personal information as defined by section 2(1) of the *Act*.

In my view, the information contained in the records constitutes the personal information of the deceased, as identified by the PGT. In addition, some information constitutes the personal information of other identifiable individuals.

Section 2(2) of the *Act* states:

Personal information does not include information about an individual who has been dead for more than thirty years.

The deceased died in the year 2000, so section 2(2) has no application to his personal information. I also have nothing to indicate that any of the other individuals whose personal information is contained in the records has been dead for more than 30 years.

## **INVASION OF PRIVACY**

Where an appellant seeks the personal information of another individual, section 21(1) of the *Act* prohibits an institution from disclosing this information unless one of the exceptions in paragraphs (a) through (f) of section 21(1) applies.

### **Section 21(1)(c) - public record**

The appellant submits that the information at issue is not exempt due to the application of the exception at section 21(1)(c) which reads:

A head shall refuse to disclose personal information to any person other than the individual to whom the information relates, except,

personal information collected and maintained specifically for the purpose of creating a record available to the general public;

The appellant takes the position that the personal information contained in the records is used to prepare a Certificate of Appointment of Estate Trustee (CAET), which is a document that has previously been made available to the public. On this basis, the appellant submits that much of the information is the same information which will be publicly available.

The appellant also states that access to the information contained in the CAET is publicly available, and used to be easily accessible, but that access to such records is now more difficult for parties such as the appellant. The appellant refers to the difficulties he has encountered in accessing these documents due to both the excessive fees involved, and the actions of the PGT.

Previous orders have stated that in order to satisfy the requirements of section 21(1)(c), the personal information must have been collected and maintained specifically for the purpose of creating a record available to the general public (for example, Order P-318). With respect to the specific types of records at issue in this appeal, Senior Adjudicator Goodis examined this issue in

Order PO-1736 [upheld on judicial review in *Ontario (Public Guardian and Trustee) v. Goodis* (December 13, 2001), Toronto Doc. 490/00 (Ont. Div. Ct.), leave to appeal refused (March 21, 2002), Doc. M28110 (C.A.)]. He dealt with submissions similar to those advanced by the appellant in this appeal. Although he accepted that information of the nature requested had been available in cases where the PGT files certain documents with the Superior Court of Justice, and that, as a result, certain information is made available to the public, he did not accept that section 21(1)(c) applied to the information at issue. He stated:

In my view, disclosure of information of the nature requested in some cases in this way is not sufficient to meet the threshold under section 21(1)(c). First, the PGT itself does not make this information available to [the] public directly; this disclosure is made by the courts. Second, the PGT is under no statutory requirement to make the requested information available to the public directly, under the [*Public Guardian and Trustee Act* (the *PGTA*)] or under any other legislation. In fact, as the PGT points out, the PGT under section 18 of the *PGTA* has a duty not to disclose information of the type requested, unless one of the exceptions in that provision applies.

On the basis of the above, Senior Adjudicator Goodis concluded that the requested information was not collected or maintained specifically for the purpose of creating a record available to the general public under section 21(1)(c) of the *Act*.

I agree with the approach taken by the Senior Adjudicator in Order PO-1736. In my view, the records at issue in this appeal were not collected or maintained specifically for the purpose of creating a record available to the general public under section 21(1)(c) of the *Act*. Accordingly, section 21(1)(c) does not apply.

### **Section 21(1)(f) – unjustified invasion**

In this case, the PGT claims that disclosing the records would constitute an unjustified invasion of the personal privacy of the deceased and the other individuals identified in the records, pursuant to section 21(1)(f). This section reads:

A head shall refuse to disclose personal information to any person other than the individual to whom the information relates except,

if the disclosure does not constitute an unjustified invasion of personal privacy.

Sections 21(2) and (3) of the *Act* provide guidance in determining whether disclosure of personal information would result in an unjustified invasion of personal privacy. Section 21(2) provides some criteria for the institution to consider in making this determination; section 21(3) lists the types of information the disclosure of which is presumed to constitute an unjustified invasion of personal privacy; and section 21(4) refers to certain types of information the disclosure of which

does not constitute an unjustified invasion of personal privacy. The Divisional Court has stated that once a presumption against disclosure has been established, it cannot be rebutted by either one or a combination of the factors set out in section 21(2) (*John Doe v. Ontario (Information and Privacy Commissioner)* (1993), 13 O.R. (3d) 767).

### **Section 21(3)**

The PGT relies on the presumptions contained in sections 21(3)(b), (c) and (f) which read:

A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy where the personal information,

- (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;
- (c) relates to eligibility for social service or welfare benefits or to the determination of benefit levels;
- (f) describes an individual's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness;

The PGT then identifies specifically the records which it considers fit within the presumptions set out above.

The appellant seems to concede that certain records may contain information which falls within one of the presumptions in section 21(3) of the *Act*. However, he states that he “seeks only those that contain information that will be of use to him in locating the family of the deceased.”

I will review the application of the presumptions for the records for which they are claimed.

### **Sections 21(3)(b) and (c)**

The PGT take the position that disclosure of Records 138-141 and 240-241 is presumed to constitute an unjustified invasion of privacy under section 21(3)(b) of the *Act*, and that the disclosure of Records 153, 166-173, 178-180, 260, 364-369 is presumed to constitute an unjustified invasion of privacy under section 21(3)(c) of the *Act*. However, because of my findings set out below under sections 21(3)(f) and 21(2), it is not necessary to determine whether these records fit within the presumptions in sections 21(3)(b) or (c).

***Section 21(3)(f)***

The PGT takes the position that a number of records fit within the presumption in section 21(3)(f), and that disclosure of these records would be a presumed invasion of personal privacy. The PGT states:

Records that describe an individual's finances, income, assets, liabilities, net worth, bank balances, financial history or activities or creditworthiness are presumed to constitute an unjustified invasion of privacy. ... For example, see pages 3, 6, 8, 10, 13-16, 19, 21-36, 38-59, 61-65, 79-118, 126-128, 130-133, 135-145, 147-152, 154-165, 174-177, 181-189, 190-222, 224-227, 229-239, 242-248, 251, 253, 254-258, 260, 261-263, 265-272, 285, 289-295, 297-312, 332-342, 357-361, 373-379, 381-431, 438-442, 446-451, 454-463, 488-496 and 524. In addition, it is submitted that photographs of assets of a deceased person are "records that describe an individual's assets" in accordance with the meaning of section 21(3)(f).

I have reviewed the records referred to by the PGT.

Many of these records were created as a result of the PGT's administering the estate of the deceased, and contain information relating to the deceased's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness. These records include correspondence to and from financial institutions and agencies, and internal correspondence relating to the estate and assets of the deceased. Some of these records contain detailed information relating directly to the type of information set out in section 21(3)(f). Records which fit within this presumption are Records 8, 10, 14-15, 22-39, 42-61, 126, 130, 136-137, 144-145, 171, 177, 180, 190, 213-222, 230-238, 243-247, 260, 262-263, 294-295, 298-300, 337-340, 350, 353, 364, 379, 388, 398, 422, 455-456 and 490-491.

However, other information relates to the deceased's assets in a more general way, and in my view does not contain the type of information set out in section 21(3)(f). For example, after viewing the photographs, which the PGT argue "describe the individual's assets", I find that these photographs do not contain the type of information contemplated by section 21(3)(f). These photographs and certain other records merely "identify" the assets of the deceased in a very general way and, in my view, are not covered by the section 21(3)(f) presumption.

In summary, I have found that Records 8, 10, 14-15, 22-39, 42-61, 126, 130, 136-137, 144-145, 171, 177, 180, 190, 213-222, 230-238, 243-247, 260, 262-263, 294-295, 298-300, 337-340, 350, 353, 364, 379, 388, 398, 422, 455-456 and 490-491 fit within section 21(3)(f), and that their disclosure would be presumed to constitute an unjustified invasion of the personal privacy of the deceased. None of the requirements listed in section 21(4) apply to this information and, as stated above, a combination of factors under section 21(2) cannot outweigh a presumption under section 21(3). Accordingly, this information qualifies for exemption under section 21 of the *Act* and should not be disclosed.



## Section 21(2)

The remaining information consists of information pertaining to the PGT's day-to-day administering of the estate, information about heirs which was collected by the PGT, the deceased individual's social insurance card information, certain information about the deceased and his parents on the Statement of Death form, and other documents and/or correspondence created by the PGT or provided to the PGT by others in the context of the administration of the deceased's estate, including correspondence to and from the deceased.

With respect to any relevant facts or circumstances that might apply, the PGT states:

The fact that the deceased has been dead for less than three years is a highly relevant factor to the determination of whether disclosure of the personal information constitutes an unjustified invasion of personal privacy. The only personal information ordered to be disclosed previously ... has been information which, in this case, does form part of the public record relating to the appointment of an estate trustee. ... As a stranger to the estate requesting access for its own commercial purposes, it is submitted that the appellant has no right to disclosure.

... The records at issue constitute information about the entire life of the deceased.

In that regard, the PGT seems to be taking the position that some of the information is "highly sensitive", and that the factor in section 21(2)(f) applies.

The appellant takes the position that the factor in section 21(2)(c) applies, and that the unlisted factors of "diminished privacy after death" and "benefit to unknown heirs" apply in favour of disclosing the information in the records. The relevant sections read:

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,

- (c) access to the personal information will promote informed choice in the purchase of goods and services;
- (f) the personal information is highly sensitive;

A number of previous orders have reviewed the application of the factors under section 21(2) (including the unlisted factors referred to by the appellant) for information in a file held by the PGT. I have had reference to the reasoning and analysis set out in those orders in deciding the issues in this appeal, in particular Orders PO-1736, PO-1936 and PO-2260.

***Section 21(2)(c): promote informed choice in the purchase of goods or services***

The appellant takes the position that section 21(2)(c) is a factor because, as an alternative to the PGT administering an estate, the appellant provides a viable alternative choice for beneficiaries. After identifying what the appellant perceives as the benefits of providing competition in the search for heirs, the appellant submits:

In its submission the [PGT] suggests that correspondence from individual third parties known by and related to the deceased should also be protected. The appellant submits that it is this very information that should be released in order to enable the lawful beneficiaries of the deceased to be identified and notified of their rights and assisted accordingly.

... providing access to such information would be used by the beneficiaries of the estate to facilitate the estate's proper and efficient administration.

This position is similar to the one raised by the appellant in Order PO-2260. In that order I stated:

With respect to the appellant's position that providing him with the information would allow him to approach the beneficiaries and provide his services, Assistant Commissioner Tom Mitchinson addressed this issue in Order P-309. That appeal arose as a result of a request made to the Ministry of Consumer and Commercial Relations for a list of the names and addresses of all babies born in Ontario in a given year. The requester took the position that the disclosure would promote informed choice of goods and services under section 21(2)(c). The Assistant Commissioner rejected the requester's claim and stated:

In my view, section 21(2)(c) is not intended to create an exception to the mandatory personal information exemption for the purpose of making mailing lists available to the public for marketing purposes.

I agreed with the position taken in P-309, and found that section 21(2)(c) did not apply in the circumstances.

I adopt the same approach to this issue in this appeal. Other than the possible benefit of locating unknown heirs, which is dealt with under the "unlisted factor" set out below, the appellant's reliance on section 21(2)(c) is based on his position that he can use the information at issue to offer his services to beneficiaries. Section 21(2)(c) does not apply in these circumstances.

***Section 21(2)(f) - highly sensitive***

The PGT states that the records at issue constitute information about the entire life of the deceased. I understand this to mean that the PGT considers much of the information in the file as “highly sensitive”, and that section 21(2)(f) is a relevant factor favouring non-disclosure of the records.

In order for section 21(2)(f) to apply, the disclosure of the information at issue must reasonably be expected to cause excessive personal distress to the individuals in question (Orders M-1053, P-1681 and PO-1736). This factor has been found to apply, for example, to information about professional misconduct (Order M-1035) and in circumstances involving allegations of workplace harassment (Order P-685).

I accept that a number of the records contain details about the deceased’s life, including his personal correspondence and his interactions with other identified individuals. I find that some of these records contain information which may be considered “highly sensitive” for the purpose of section 21(2)(f). Specifically, I find that Records 6, 66-69, 146, 170, and 274-280 contain highly sensitive personal information of the deceased and other individuals.

However, as identified above, other records consist of information relating to the PGT’s administration of the estate of the deceased. Many of these records do not contain information about the deceased which could be considered “highly sensitive”.

***Unlisted Factor - diminished privacy interest after death***

The factors listed in section 21(2) are not exhaustive. Unlisted factors may also be relevant, depending on the particular circumstances of an appeal. One such unlisted factor is the possible “diminished privacy interest after death”. I recently applied this unlisted factor to five categories of information in Order PO-2260. In that order I stated:

Assistant Commissioner Mitchinson recently considered whether the “diminished privacy interest after death” factor applies where an individual had been dead for less than 12 months. In Order PO-2240, he first reviewed his findings that there existed a diminished privacy interest after death in PO-1717 and PO-1936. He then stated:

In the current appeal, the deceased died on December 3, 2002, less than four months before the appellant submitted his request to the [PGT] under the *Act*. Although I accept that an individual’s privacy interests begin to diminish at the time of death, four months is too short a period of time for any meaningful diminishment to have occurred. As identified in Order PO-1936, this unlisted factor must be applied with care, taking into account the fact that section 2(2) establishes some degree of privacy

interest until 30 years following death. While each case must be assessed on its own facts, and the weight accorded to this unlisted factor will vary according to the length of time an individual has been dead, in my view, it would be inconsistent with the policy intent of section 2(2) to attribute any significant weight to this unlisted factor for at least the first year following death.

I accept the approach taken by Assistant Commissioner Mitchinson in applying the unlisted factor of a “diminished privacy interest after death.” As established in Order PO-2240, I do not attribute any significant weight to this unlisted factor for at least the first year following death.

However, after one year following the date of death, I find that this factor is to be attributed weight of some significance. In Order PO-1736 (upheld by the Divisional Court), Senior Adjudicator Goodis had to decide whether this factor applied where, at the time of the request, the deceased individual had been dead for approximately two years. He found that the factor of “diminished privacy interest after death” did apply, although he decided that the privacy interests of the deceased individuals were “moderately reduced” in those circumstances.

Based on the previous orders of this office, and on the representations of the parties, it is my view that the unlisted factor of a “diminished privacy interest after death” is a factor that applies upon the death of the individual to whom the information relates. However, I find that it is not to be attributed any significant weight for the first year following death, but that after that time, it should be accorded moderate weight.

The appellant and the PGT have taken opposing views on the application of this factor. The appellant asserts that it is a relevant factor, and the PGT, as identified above, takes the position that it is not, as the deceased has died as recently as the year 2000.

In my view, based on numerous previous orders, this unlisted factor is a relevant factor. Furthermore, as more than one year has passed since the date of death, in my view, this factor is to be attributed moderate weight.

***Unlisted factor - benefit to unknown heirs***

The appellant provided representations on this unlisted factor. He asserts that disclosure of the requested information to him increases the possibility of locating rightful heirs who might otherwise remain unknown, and refers to previous orders of this office in support of his position (Orders PO-1493, PO-1717 and PO-1936).

Again, I recently reviewed the application of this unlisted factor to five categories of records in Order PO-2260. After reviewing the representations of the parties and the previous orders in which this factor was applied, and adopting that approach, I stated:

... I find that the unlisted factor of "benefit to unknown heirs" is a relevant factor that applies upon the date of the death of the individual to whom the information relates. However, ... I find that it should not be accorded any significant weight for the first year following death, after which it should be accorded moderate weight.

Applying similar reasoning to that followed in Orders PO-1717, PO-1736, PO-1923 and PO-2260, I find the possibility that disclosure of personal information about the deceased might result in individuals successfully proving their entitlement to assets of estates, who might otherwise remain unknown, is a relevant factor favouring disclosure.

Considering the particular circumstances of this appeal and the contents of the specific records being requested by the appellant, I find that the potential for disclosure of certain information contained on the Statement of Death (Record 2), the Proof of Death Certificate (Record 9), the Crown Request for Information (Record 355) and the Crown Estate Report (Record 524), to assist individuals to prove their entitlement to assets of an estate which they may not have been able to otherwise is a relevant factor. As identified in a number of previous orders, the weight of this factor varies according to the extent to which a particular item of personal information assists in the identification of potential heirs. In the circumstances of this appeal, the date of death, place of death, age, date of birth, place of birth, marital status, occupation, addresses, and information about the deceased's parents could reasonably be expected to assist in the identification of potential heirs. Applying similar reasoning to that followed by Senior Adjudicator Goodis in Order PO-1736 and Assistant Commissioner Mitchinson in Order PO-1923 and PO-1936, I find that this unlisted factor applies to a high degree as it relates to the date of death; to a moderate to high degree to the place of death, date of birth, place of birth, age, marital status, addresses and occupation of the deceased, and to the names of the deceased's parents; and not at all to the deceased's social insurance number, health number or other identifying number of the deceased.

Having reviewed the rest of the records, and in light of my decisions regarding the information contained in Records 2, 9, 355 and 524, I find that the "benefit to unknown heirs" factor is not a relevant consideration with respect to any personal information contained in the other records at issue in this appeal.

### **Analysis of Factors**

I have made a number of findings concerning the application of the factors (both those listed in section 21(2) and the unlisted factors referred to by the parties). Taking all representations and considerations into account, I have accorded the following weight to the various factors:

- *highly sensitive* (section 21(2)(f)) - favours non-disclosure (applies to Records 6, 66-69, 146, 170, and 274-280)
- *diminished privacy interest after death* - favours disclosure – moderate weight for personal information of deceased; no weight for personal information of other individuals
- *benefit to unknown heirs* (only relevant to portions of Records 2, 9, 355 and 524) - favours disclosure - high weight for deceased's date of death; moderate to high weight for the names of the deceased's parents and for the deceased's date of birth, place of birth, place of death, age, marital status, addresses and occupation; no weight for the deceased's social insurance number and the personal information of others; no weight for personal information contained in all other records

In balancing the various factors present in this appeal, I find that the factors favouring disclosure outweigh the factors favouring privacy protection for certain specific information contained in Records 2, 9, 355 and 524, but that the balance favours privacy protection for all other records. Specifically, I find that disclosure of the date of death, place of death, date of birth, place of birth, age, marital status and occupation of the deceased, and addresses of the deceased contained in these records outweigh the privacy interests of the deceased in the circumstances. This information would be of value in identifying potential estate heirs, which is an important public policy objective. Accordingly, I find that disclosure of this information would not constitute an unjustified invasion of the privacy of the deceased within the meaning of section 21(1)(f), and this information is therefore not exempt under section 21(1) and should be disclosed to the appellant.

With respect to any information relating to the parents of the deceased, in the circumstances of this appeal and based on their information contained in the records, I find that the “benefit to unknown heirs” factor does not outweigh the privacy interests of the parents. Accordingly disclosure of their information would constitute an unjustified invasion of privacy.

I will provide the PGT with a highlighted copy of Records 2, 9, 355 and 524, identifying the portions that should be disclosed, as they contain information the disclosure of which would not constitute an unjustified invasion of privacy under section 21(1) of the *Act*.

As identified above, the PGT has claimed that the exemptions in sections 13(1) and 22(a) apply to a number of the records. As I have found that each of those records is exempt from disclosure under section 21(1), it is not necessary for me to determine whether sections 13(1) or 22(a) apply to them.

**ORDER:**

1. I order the PGT to provide the appellant with copies of those portions of Records 2, 9, 355 and 524 which are highlighted in the copy of the records provided to the PGT's Freedom of Information Co-ordinator by **August 6, 2004** but not before **July 30, 2004**.
2. I uphold the PGT's decision to deny access to the remaining information.
3. In order to verify compliance with the terms of Order Provision 1, I reserve the right to require the PGT to provide me with copies of the records that are disclosed to the appellant.

Original signed by: \_\_\_\_\_  
Frank DeVries  
Adjudicator

\_\_\_\_\_ June 30, 2004