



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

ORDER P-518

Appeal P-9300179

Ministry of Health



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ORDER

BACKGROUND:

The Ministry of Health (the Ministry) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for a copy of the written complaint arising from call "#084657" and a copy of the audio tape of an interview with the requester regarding the complaint. The Ministry granted the requester total access to the audio tape and partial access to the written complaint. The Ministry claimed that the exemption under section 21(1) of the Act applied to the information severed from the letter. The requester appealed the Ministry's decision.

In his letter of appeal, the appellant stated: "I would now like to appeal a paragraph that was omitted from page 4 of the written complaint"; however during the processing of the appeal, he indicated that he was interested in getting access to all of the information deleted from the record. The appeal could not be resolved by mediation and notice that an inquiry was being conducted to review the Ministry's decision was sent to the appellant, the Ministry and the author of the letter (the affected person). Representations were received from the Ministry and the affected person only. In its representations, the Ministry stated that the date of the letter was deleted in error, and agreed to disclose it to the appellant.

RECORD AT ISSUE:

The record at issue in this appeal is a four-page letter written by the affected person complaining about the Emergency Health Care Services System of the Ministry and the conduct of two ambulance attendants who transported her mother to a hospital. The appellant was one of those attendants. The information withheld from the appellant consists of ten severances made to this record.

ISSUES:

The issues arising in this appeal are:

- A. Whether the record contains "personal information" as defined by section 2(1) of the Act.
- B. If the answer to Issue A is yes and the personal information relates solely to individuals other than the appellant, whether section 21(1) of the Act applies.

SUBMISSIONS/CONCLUSIONS:

ISSUE A: Whether the record contains "personal information" as defined by section 2(1) of the Act.

Section 2(1) of the Act states, in part, as follows:

"personal information" means recorded information about an identifiable individual, including,

...

(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,

...

(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;

I have reviewed the severances in the record. In my view, all of the information withheld from the appellant, except the first full paragraph on page four, qualifies as personal information under one or more of the above definition of "personal information" in section 2(1) of the Act. These severances consist of the names, addresses, medical history, employment information, identifying numbers and the personal views and opinions of identifiable individuals.

I find that this personal information relates solely to individuals other than the appellant. The personal information in the record which relates to the appellant has already been disclosed to him.

The first full paragraph on page four of the record is information which was provided by an individual in her professional capacity and in the course of the execution of her employment responsibilities. This individual is not the subject of the complaint and the opinions or views she expressed do not relate to any identifiable individual. In my view, this information is not

personal information (Orders 139, P-257 and P-326). The Ministry has not claimed any other exemption for this information and in the absence of a mandatory exemption applying to it, it should be disclosed to the appellant.

ISSUE B: If the answer to Issue A is yes and the personal information relates solely to individuals other than the appellant, whether section 21(1) of the Act applies.

In Issue A, I found that, with the exception of the first full paragraph on page four, the information severed from the record is personal information which relates solely to individuals other than the appellant. Section 21(1) of the Act is a mandatory exemption which prohibits the disclosure of personal information to any person other than to the individual to whom the information relates, except in the circumstances listed in sections 21(1)(a) through (f) of the Act.

In my view, the only exception to the mandatory exemption contained in section 21(1) of the Act which has potential application in the circumstances of this appeal is 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.

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 this exception applies, I must find that disclosure of the personal information would **not** constitute an unjustified invasion of personal privacy.

The appellant has submitted no representations with respect to the information which I have found relates solely to individuals other than himself. The representations I have been provided with by the Ministry and the affected person with respect to this information raise considerations which weigh in favour of finding that the section 21(1)(f) exception does not apply.

Having carefully reviewed the contents of the record and the provisions of the Act, and in the absence of evidence that disclosure of the information would not constitute an unjustified invasion of personal privacy, I find that the mandatory exemption provided by section 21(1) of the Act applies to the information at issue.

ORDER:

1. I order the Ministry to disclose to the appellant the date of the record and the first full paragraph on page four of the record within 15 days of the date of this order.
2. I uphold the decision of the Ministry to withhold the remaining information in the record.
3. In order to verify compliance with the order, I order the Ministry to provide me with a copy of the record which is disclosed to the appellant pursuant to Provision 1, **only** upon request.

Original signed by: _____
Asfaw Seife
Inquiry Officer

_____ August 20, 1993