



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

ORDER P-521

Appeal P-9300199

Ministry of the Solicitor General and Correctional Services



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ORDER

BACKGROUND:

The Ministry of the Solicitor General (now 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 information related to the death of a named individual including media reports, police briefs and forensic reports. Partial access to the records was granted. Access was denied to the statement of an individual and an autopsy report under section 21(1) of the Act. The requester appealed the decision, stating that the exemption cited by the Ministry did not apply as the deceased, the subject of the autopsy report, has been dead for over thirty years. During mediation, the appellant confirmed that the only record at issue in this appeal is the autopsy report.

Further mediation was not possible and notice that an inquiry was being conducted to review the Ministry's decision was sent to the appellant and the Ministry. Representations were received from both parties. With its representations, the Ministry enclosed the comments of a family member of the deceased individual.

ISSUES:

- A. Whether the record contains personal information as defined in section 2(1) of the Act.
- B. If the answer to Issue A is yes, whether the mandatory exemption provided by section 21(1) of the Act applies.

SUBMISSIONS/CONCLUSIONS:

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

Personal information is defined in section 2(1) of the Act, in part, as follows:

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

The Ministry submits that the autopsy report contains recorded information about an identifiable individual, namely the deceased. The appellant does not dispute this. Having reviewed the autopsy report, I agree.

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 Ministry submits that the unique circumstances and requirements of murder investigations demand that the personal privacy rights of murder victims should not completely lapse after an arbitrary period of 30 years. The police, by necessity, collect an extreme amount of personal information on murder victims and some of this information is of an extraordinarily sensitive nature. Interest in murder investigations may endure or even heighten 30 years following the death of the victim and, accordingly, the Ministry submits that interest in the murder victim does not fully diminish in a 30 year period. The Ministry indicates that in this particular case, though the death occurred in 1945, criminal proceedings were not commenced until 1992.

The Act clearly excludes recorded information about individuals who have been dead for more than 30 years from the definition of personal information. There are no exceptions to the 30 year time limit found anywhere in the Act. The privacy rights provided by the Act do not extend to information which is not personal information. Having reviewed the record, it is my view that the information in the record relates to an individual who has been dead for more than 30 years and, accordingly, I find that this information is not personal information for the purposes of the Act. Since I have found that the answer to Issue A is no, it is not necessary for me to consider Issue B.

ORDER:

1. I order the Ministry to disclose the record within 15 days of the date of this order.
2. In order to verify compliance with this 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: _____
Holly Big Canoe
Inquiry Officer

_____ August 25, 1993