



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

ORDER P-681

Appeal P-9400051

Criminal Injuries Compensation Board



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

ORDER

The Criminal Injuries Compensation Board (the Board) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for access to all documentation in a specific Board file, including any medical reports, hospital records, doctors notations, nurses records, laboratory reports and similar material relating to an application under the Compensation for Victims of Crime Act. The requester is an individual other than the person to whom the information relates.

The requester attended at the Board's premises, was given access to the file relating to the victim's claim and was provided with copies of certain documents contained in the file. The requester then appealed to the Commissioner's office on the basis that additional records responsive to his request should exist.

The appellant indicated that more background information such as reports, hospital records, medical notes and records of a similar nature, should exist at the Board. He also maintained that the double numbering found on some pages of the file suggested that other records exist in the Board's file or elsewhere on the Board's premises.

Notice that an inquiry was being conducted to review the Board's decision was sent to the Board and the appellant. Representations were received from the Board only. The appellant's views, as communicated to the staff of the Commissioner's office, have also been considered.

Based on the appellant's letter of appeal and subsequent communications with this office, the sole issue to be determined in this appeal is whether the Board has conducted a reasonable search for records responsive to the request.

The Act does not require the Board to prove with absolute certainty that the requested records do not exist. However, in my view, in order to properly discharge its obligations under the Act the Board must provide me with sufficient evidence which shows that it has made a **reasonable** effort to identify and locate records responsive to the request (Order P-457).

In the Notice of Inquiry, the Board was asked to describe its filing system and to submit an affidavit sworn by the employee of the Board who conducted the search for records detailing the steps taken to locate responsive records.

In its representations, the Board provided an affidavit from its Freedom of Information and Protection of Privacy Co-ordinator describing the manner in which this request was addressed. The Co-ordinator explained that, in response to the request, he met with the appellant at the Board's premises where the original file and a copy of the Board's brief were made available to the appellant.

The Board further states that, at the time of his attendance at the Board's offices, the appellant indicated that he did not wish to receive copies of certain standard form letters which were contained in the file. According to the Board's representations, the appellant compared the

medical documentation contained in the file to the copies he had received, and was satisfied that he had been provided with a complete copy of the medical documentation in the file.

The Board's representations also state that the secondary numbers on certain pages of the brief relate to the filing system of the hospital from which the records originated, and were placed on the records by hospital staff.

Finally, the Board states that it maintains only one file per case, and that there are no other records in existence other than those viewed by the appellant about the file in question.

The appellant indicates that he is seeking access to all of the records in the Board's file, and that he believes the Board is "holding back" records.

Based on the evidence before me, I am satisfied that the Board's explanation of the double numbering system found on some pages of the records is credible. I am also satisfied that there exists only one file maintained by the Board regarding the case referred to in the request. Further, I find that no other records regarding this case are kept elsewhere on the Board's premises.

Accordingly, I find that in the circumstances of this appeal, the search for responsive records undertaken by the Board was reasonable.

ORDER:

I uphold the decision of the Board.

POSTSCRIPT:

When an institution decides to grant access to records which contain the personal information of an individual other than the requester, section 28 of the Act requires that the institution give written notice to the individual of the institution's intention to disclose the personal information where it believes that such disclosure might constitute an unjustified invasion of the individual's personal privacy. The individual is then entitled to make representations to this point and, where the original decision to grant access is sustained by the institution, to appeal this determination to the Commissioner's office. In this case, the Board granted access to information of a very sensitive nature without notifying the victim of this decision and allowing the victim to make representations on this matter.

In order to prevent a reoccurrence of this situation, I have asked that staff of both the Access and Compliance Departments of the Commissioner's office conduct an investigation of the Board's procedures regarding access requests and the disclosure of sensitive personal information relating to its applicants.

Original signed by: _____
Donald Hale
Inquiry Officer

_____ May 16, 1994