



**Information and Privacy
Commissioner/Ontario**

**Commissaire à l'information
et à la protection de la vie privée/Ontario**

ORDER P-650

Appeal P-9300478

Ministry of the Solicitor General and Correctional Services



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ORDER

BACKGROUND:

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 personal information relating to the requester. Specifically, the requester sought access to information collected by the Ontario Provincial Police (the OPP) and presented to the Postal Tribunal, information collected by the OPP regarding the requester's political activities, and any correspondence, telephone logs, or messages between the OPP and the federal government, agencies or private organizations.

The Ministry located 191 pages of records which it considered responsive to the request. Access was denied to the records pursuant to sections 49(a) and (b) of the Act. The Ministry indicated section 49(a) had been applied as the records qualified for exemption under sections 14(1)(a), (b), (d), (e), (g), 14(2)(a), and 15(b) of the Act. The requester appealed the denial of access.

During mediation, the Ministry reconsidered its position and granted access to 71 pages of the records. The Ministry indicates that the remaining pages of the records consist of an intelligence file compiled by the Intelligence Branch of the OPP.

The appellant was not content with this degree of disclosure, and further mediation was not possible. Accordingly, 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.

ISSUES:

The issues arising in this appeal are:

- A. Whether information contained in the records qualifies as "personal information" as defined in section 2(1) of the Act.
- B. Whether any parts of the records qualify for exemption pursuant to any of the discretionary exemptions provided by sections 14(1)(a), (b), (d), (e), (g), 14(2)(a), and 15(b) of the Act.
- C. If the answer to Issues A and B is yes, whether any parts of the records qualify for exemption pursuant to the discretionary exemption provided by section 49(a) of the Act.
- D. If the answer to Issue A is yes, and the personal information relates to the appellant and other identifiable individuals, whether any parts of the records qualify for exemption pursuant to the discretionary exemption provided by section 49(b) of the Act.

SUBMISSIONS/CONCLUSIONS:

ISSUE A: Whether the information contained in the records qualifies as "personal information" as defined in section 2(1) of the Act.

Section 2(1) of the Act states, in part, that "personal information" means "recorded information about an identifiable individual". Having reviewed the records, it is my view that they contain information which satisfies the definition of "personal information". I find that this personal information relates both to the appellant and other identifiable individuals.

ISSUE B: Whether any parts of the records qualify for exemption pursuant to any of the discretionary exemptions provided by sections 14(1)(a), (b), (d), (e), (g), 14(2)(a), and 15(b) of the Act.

The Ministry has applied section 14(1)(g) of the Act to all parts of the records. Section 14(1)(g) states:

A head may refuse to disclose a record where the disclosure could reasonably be expected to,

interfere with the gathering of or reveal law enforcement intelligence information respecting organizations or persons;

In my view, for the purposes of section 14(1)(g) of the Act, "intelligence" information may be described as information gathered by a law enforcement agency in a covert manner with respect to ongoing efforts devoted to the detection and prosecution of crime or the prevention of possible violation of law, and is distinct from information which is compiled and identifiable as part of the investigation of a specific occurrence (Order M-202).

The Ministry submits that the information contained in the records was gathered by the Intelligence Branch of the OPP in relation to matters which were and are still being investigated and/or monitored. The Ministry submits that it is essential that the extent of police knowledge about certain individuals and groups or illegal activities remains unknown, so as not to interfere with police efforts in the prevention of crime.

Having reviewed the records, I am satisfied that their disclosure could reasonably be expected to reveal law enforcement intelligence information respecting organizations or persons. Accordingly, the records qualify for exemption under section 14(1)(g) of the Act.

Because I have found that all of the records qualify for exemption under section 14(1)(g), it is not necessary for me to consider the application of the additional exemptions claimed for the records.

ISSUE C: If the answer to Issues A and B is yes, whether any parts of the records qualify for exemption pursuant to the discretionary exemption provided by section 49(a) of the Act.

Section 47(1) of the Act gives individuals a general right of access to any personal information about themselves in the custody or under the control of an institution. However, section 49(a) provides an exception to this general right of access as follows:

A head may refuse to disclose to the individual to whom the information relates personal information,

where section 12, 13, **14**, 15, 16, 17, 18, 19, 20 or 22 would apply to the disclosure of that personal information; [emphasis added]

Under Issue A, I found that the records at issue contain the personal information of the appellant and, under Issue C, that the records qualified for exemption under section 14(1)(g) of the Act.

I have reviewed the Ministry's representations regarding its decision to exercise discretion in favour of claiming section 49(a) to withhold the records and find nothing improper in their decision to deny access.

Because of the manner in which I have disposed of Issue C, it is not necessary for me to address Issue D.

ORDER:

I uphold the Ministry's decision.

Original signed by: _____
Holly Big Canoe
Inquiry Officer

_____ March 28, 1994