



**Information and Privacy
Commissioner/Ontario**

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

ORDER P-748

Appeal P_9400178

Ministry of the Solicitor General and Correctional Services



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NATURE OF THE APPEAL:

This is an appeal under the Freedom of Information and Protection of Privacy Act (the Act). The Ministry of the Solicitor General and Correctional Services (the Ministry) received a request for access to a copy of the requester's probation and parole file.

The Ministry provided access to much of the file, but did not disclose it in its entirety. The requester, represented by counsel, appealed the Ministry's decision to withhold some of the records.

During mediation of the appeal, the Ministry disclosed more documents to the appellant. In addition, the appellant, still represented by counsel, agreed to narrow the scope of the appeal.

A Notice of Inquiry was provided to the Ministry and the appellant. Representations were received from both parties.

The record at issue consists of:

- Handwritten notes which are part of the appellant's "Record of Case Supervision" in his probation and parole file (Pages 51 and 52, withheld in their entirety and Pages 18, 19, 50 and 204, withheld in part)
- a page from a typewritten document dealing with a request for a parole variation (Page 67, withheld in part)

The Ministry has withheld this information pursuant to the following exemption:

- confidential correctional record - section 49(e)

DISCUSSION:

CONFIDENTIAL CORRECTIONAL RECORD

Under section 2(1) of the Act, "personal information" is defined, in part, to mean recorded information about an identifiable individual. Having reviewed the information in the record at issue, I find that it satisfies the definition of "personal information" in section 2(1) and relates to both the appellant and other individuals.

Section 47(1) of the Act gives individuals a general right of access to their own personal information held by a government body. Section 49 provides a number of exceptions to this general right of access. One such exception is found in section 49(e) of the Act.

Under section 49(e), an institution has the discretion to deny access to an individual's own personal information that is a correctional record where disclosure could reasonably be expected to reveal information that was supplied in confidence (Orders 64 and P-421).

In its representations, the Ministry submits that in carrying out its mandate of providing treatment and rehabilitation programs for adult offenders, it operates 40 Probation and Parole

Area Offices which provide supervision to individuals serving community dispositions. Probation, one of these community dispositions, is a court-ordered sanction given instead of, or in addition to, a term of incarceration. On this basis, the Ministry takes the position that probation is a "correctional activity", and that the records relating to probation are "correctional records".

The Ministry also states that the information at issue in this appeal is contained in a case file maintained by the appellant's probation and parole officers. The case file documents the time period during which the appellant was on probation and was required to report to a probation and parole officer.

A review of the record indicates that the information withheld from the appellant consists of information received in confidence from other parties by Ministry employees (the probation and parole officers) who supervised the appellant during his probation. The record was thus created during the Ministry's discharge of its responsibilities described above.

Having considered the nature of the record and the Ministry's representations with respect to the circumstances of the receipt of the information, I am satisfied that the personal information is a correctional record. I am also of the view that disclosure of this record could reasonably be expected to reveal information that was supplied to the Ministry in confidence. Accordingly, I find that the record at issue in this appeal qualifies for exemption under section 49(e) of the Act and should not be disclosed.

ORDER:

I uphold the decision of the Ministry.

Original signed by: _____

Anita Fineberg
Inquiry Officer

_____ August 30, 1994