



**Information and Privacy  
Commissioner/Ontario**

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

# **ORDER P-723**

**Appeal P\_9300369**

**Ministry of the Solicitor General and Correctional Services**



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>

## **NATURE OF THE APPEAL:**

This is an appeal under the Freedom of Information and Protection of Privacy Act (the Act). The appellant has requested a copy of a record from the Ministry of the Solicitor General and Correctional Services (the Ministry). The requested record is a 20-page investigation report, prepared according to the Workplace Discrimination and Harassment Prevention (WDHP) directive, about allegations of Klu Klux Klan activity at the Guelph Correctional Centre in 1989. The appellant is one of seven individuals who gave statements to the WDHP investigator. The Ministry granted access to that portion of the record which contains the appellant's statement to the investigator.

The Ministry relies on the following exemption to deny access to the remainder of the record:

- invasion of privacy - section 21(1).

A Notice of Inquiry was sent to the Ministry, the appellant, the respondent in the WDHP investigation (the respondent) and nine other individuals who either gave statements to the WDHP investigator or are referred to in the record (the affected persons). Representations were received from the Ministry, the respondent and five affected persons.

It should be noted that, while this investigation was undertaken under the WDHP, this was a Ministry-initiated investigation, rather than an investigation into a harassment complaint by one named individual against another. In addition, unlike most appeals where WDHP related records are at issue, the appellant is neither the complainant nor the respondent in the investigation.

During the mediation of this appeal, the appellant indicated that he was not interested in receiving access to the personal information of any other identifiable individuals contained in the report.

## **DISCUSSION:**

### **PERSONAL INFORMATION**

Under section 2(1) of the Act, "personal information" is defined, in part, to mean recorded information about an identifiable individual, including:

- the race or sex of the individual,
- the education, criminal or employment history of the individual
- the personal opinions or views of the individual except where they relate to another individual,
- the views or opinions of another individual about the individual and

- 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.

As previously indicated, the appellant has stated that he is not seeking access to any of the personal information of other individuals (such as names and identifiers) contained in the record. The Ministry's position is that all of the information in the record constitutes the personal information of other individuals. As a preliminary matter, therefore, I must determine which portions of the investigation report contain the personal information of these other individuals.

I have carefully reviewed the record which is divided into three parts: (1) summary of the investigation, (2) results of the investigation (including the statements of eight of the affected persons and the respondent) and (3) findings and conclusions. I find that, in addition to the names of the individuals identified in the record, a series of passages on each page of the report also contains information that could identify these individuals and, therefore, constitutes their personal information. I also find that this personal information relates to the respondent and the nine affected persons. None of the personal information which remains at issue in the record relates to the appellant.

The Ministry submits that the removal of the personal identifiers would not be sufficient to protect the identity of the respondent and the affected persons. While I accept this argument for certain statements contained in the record, I do not accept it for others. In the latter cases, once the "personal identifiers" in the record are removed, the remaining information loses its character as personal information as the materials cannot be related to identifiable individuals.

In this order, I have highlighted those portions of the record which constitute the personal information of identifiable individuals and which, therefore, fall outside the scope of this appeal. These portions of the record must **not** be disclosed to the appellant.

In my view, the remaining portions of the record do not contain personal information. Because the invasion of privacy exemption only applies to exempt **personal information** from disclosure, it follows that this section is not applicable to this category of information. Putting the matter somewhat differently, the disclosure of portions of the record which do not, themselves, constitute personal information would not represent an unjustified invasion of privacy. Since the Ministry has not claimed that any other exemption applies to this information, it should be disclosed to the appellant in accordance with the highlighted copy of the record provided to the Freedom of Information and Privacy Co-ordinator of the Ministry with a copy of this order.

**ORDER:**

1. I uphold the Ministry's decision to deny access to the portions of the record that **are** highlighted on the copy of the record which is being sent to the Ministry's Freedom of Information and Privacy Co-ordinator with a copy of this order.
2. I order the Ministry to disclose the record to the appellant, **except** the portions of the record that are highlighted on the copy of the record which is being sent to the Ministry's Freedom of Information and Privacy Co-ordinator with a copy of this order. The highlighted portions should **not** be disclosed.

3. I order the Ministry to disclose the portions of the record described in Provision 2, within thirty-five (35) days following the date of this order, but not earlier than the thirtieth (30th) day after the date of this order.
4. In order to verify compliance with this order, I reserve the right to require the Ministry to provide me with a copy of the record disclosed to the appellant pursuant to Provision 2.

Original signed by: \_\_\_\_\_  
Mumtaz Jiwan  
Inquiry Officer

\_\_\_\_\_ July 15, 1994