



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

# **ORDER P-817**

Appeal P-9400476

Ministry of Community and Social 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 Ministry of Community and Social Services (the Ministry) received a request for all information in its possession regarding its investigation into the death of a child in the care of a day care facility licensed by the Ministry. The requester is counsel to the family of the deceased child. The Ministry located a number of records responsive to the request and granted access to all but two of them, in whole or in part, relying on the following exemption contained in the Act:

- invasion of privacy - section 21(1)

The requester appealed the Ministry's decision to deny access to the records. A Notice of Inquiry was provided to the appellant, the Ministry and to another individual whose rights may be affected by the disclosure of the records (the affected person). Representations were received from all three parties. The records at issue consist of a resume with several attachments (Record 1) as well as the undisclosed portions of page 2 of a document entitled Serious Occurrence Report (Record 2).

## **DISCUSSION:**

### **INVASION OF PRIVACY**

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

Once it has been determined that a record contains personal information, section 21(1) of the Act prohibits the disclosure of this information except in certain circumstances.

I have reviewed the resume and attachments along with the undisclosed information contained in the occurrence report and find that they contain the personal information of individuals other than the appellant.

Sections 21(2), (3) and (4) of the Act provide guidance in determining whether the disclosure of personal information would result in an unjustified invasion of personal privacy. Where one of the presumptions in section 21(3) applies to the personal information found in a record, the only way such a presumption against disclosure can be overcome is if the personal information falls under section 21(4) or where a finding is made that section 23 of the Act applies to the personal information.

If none of the presumptions in section 21(3) apply, the institution must consider the application of the factors in section 21(2) of the Act, as well as all other circumstances that are relevant in the circumstances of the case.

The Ministry submits that the presumption against disclosure contained in section 21(3)(d) of the Act applies  
[IPC Order P-817/December 15, 1994]

to the information contained in the resume and the attachments thereto as it relates to the employment and educational history of an individual. It further submits that the presumption provided by section 21(3)(g) applies to exempt from disclosure the severed information contained in the occurrence report as it consists of personal recommendations concerning the affected person. The Ministry also indicates that section 21(2)(i) of the Act applies to the information contained in the occurrence report as the disclosure of this information may unfairly damage the reputation of an individual who is referred to in the record.

I have reviewed the representations of the parties and the records at issue and have made the following findings:

- (1) Record 1 relates solely to the employment and educational history of an individual other than the appellant. Accordingly, I am of the view that the presumption contained in section 21(3)(d) applies to the resume and its attachments in their entirety and it should not be disclosed to the appellant.
- (2) None of the information contained in Record 1 falls within the scope of section 21(4). Nor has the appellant submitted that section 23 of the Act applies to this personal information.
- (3) Record 2 does not consist of personal recommendations or evaluations within the meaning of section 21(3)(g). Therefore, the presumption does not apply to exempt from disclosure Record 2.
- (4) The disclosure of the severed information contained in Record 2 would unfairly damage the reputation of the affected person who is referred to therein. Section 21(2)(i) is a relevant consideration favouring the non-disclosure of this information.
- (5) I have not been provided with any factors, either listed in section 21(2) or unlisted, which favour the disclosure of the information contained in Record 2. Accordingly, I find that section 21(1) applies and Record 2 should not be disclosed to the appellant.

**ORDER:**

I uphold the decision of the Ministry.

Original signed by: \_\_\_\_\_  
Donald Hale  
Inquiry Officer

\_\_\_\_\_ December 15, 1994