



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

ORDER P-1023

Appeal P-9500279

Ministry of Health



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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 Health (the Ministry) received a request for all draft and final reports of a quality assessment review of the Ministry's Audit Branch (the Branch). The review was conducted in the third and fourth quarters of 1994. The request was made by an employee in the Branch.

The Ministry located nine records and granted partial access to them. Access was denied to two versions of a draft appendix, which forms part of the draft Executive Summary of the quality assurance review, pursuant to the exemption in section 21(1) of the Act (invasion of privacy). The requester appealed this decision.

A Notice of Inquiry was provided to the Ministry, the appellant and one individual who might have an interest in the records at issue (the affected party). Representations were received from all three parties.

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 views or opinions of another individual about the individual and information relating to the employment history of an individual.

In his representations, the appellant states that the requested records primarily describe the operational status of a unit within the Ministry. Any personal information contained in the record is incidental to the focus of the majority of the information contained in it.

The Ministry submits that although the records do not contain the name of any individual, a position title has been mentioned and it is reasonable to expect that the individual holding that position can be identified from the information contained in the record. Moreover, the Ministry claims that, as an employee of the Branch, the appellant would be familiar with the circumstances surrounding the creation of the record and would be able to identify the individual holding the position referred to in it.

Audits of government departments may be undertaken for many different reasons. For example, an audit may be conducted on a routine basis as required by legislation or policy, or as a result of a particular situation which has arisen concerning that department.

In this case, the audit was conducted because of the Government of Ontario's decision to adopt the Institute of Internal Auditors Standards for the Professional Practice of Internal Auditing (the Standards). The Standards require an external review of a program's audit function once every three years. The purpose of the audit is to assess the Branch's compliance with the Standards, to review the efficiency and effectiveness of its operations and to recommend areas of improvement.

Any audit of a government department will likely impact on the individuals working in that department, either favourably or unfavourably. In these situations, an employee cannot expect to maintain complete anonymity with respect to the results of this kind of review.

In my view, the extent to which a record describing the audit results can be found to contain the personal information of an individual depends on the focus of the audit and the nature of the information pertaining to the individual, which has been included in the audit results.

I have reviewed the records. In most cases, the comments contained in the records relate to the organization of the Branch and reflect on the quality of work produced by the Branch in general. In my view, although this may reflect, in a general sense, on the performance of individuals within the department, this does not constitute the personal information of any particular individual employed in the Branch. I find, therefore, that these portions of the records do not qualify as 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 exempt this information from disclosure. To disclose such information would not constitute an unjustified invasion of personal privacy.

In some cases, however, the comments in the records appear to be directed at the individual holding the position referred to in the records and reflect the views or opinions of the auditors about this person. These comments essentially amount to an assessment of this individual's performance. In my view, it is possible to identify the individual by reference to this position.

It has been established in previous orders of the Commissioner that where information contained in a record pertains to an evaluation of an employee's performance or an investigation into his or her conduct, these references are considered to be the individual's personal information. Accordingly, I find that the portions of the records which I have highlighted in yellow, on the copies of the records sent to the Ministry, contain the personal information of the individual referred to by title.

The appellant indicates in his representations that he is not interested in receiving incidental information of a personal nature which is contained in the records, and that this information may be removed from the scope of this appeal. I have found that the highlighted portions of the records contain the personal information of another individual. Accordingly, this information is not at issue in this appeal, and should not be disclosed.

ORDER:

1. I order the Ministry to disclose the information in the records, which has **not** been highlighted in yellow on the copies of the records which have been provided to the Ministry's Freedom of Information and Privacy Co-ordinator with a copy of this order, to the appellant within thirty-five (35) days after the date of this order but not before the thirtieth (30th) day after the date of this order.

2. In order to verify compliance with the provisions of this order, I reserve the right to require the Ministry to provide me with a copy of the portions of the records which are disclosed to the appellant pursuant to Provision 1.

Original signed by: _____
Laurel Cropley
Inquiry Officer

_____ October 12, 1995