



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

# **ORDER P-1256**

**Appeal P-9600202**

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



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## **NATURE OF THE APPEAL:**

The appellant made a request under the Freedom of Information and Protection of Privacy Act (the Act) to the Ministry of the Solicitor General and Correctional Services (the Ministry). The request was for access to all records concerning the investigation of a complaint received by the Ministry's Registrar of Private Investigators and Security Guards. The complaint related to unlicensed individuals investigating complaints of workplace harassment on behalf of the federal government.

The Ministry identified 35 pages of responsive records and provided access to 18 pages. The Ministry denied access to 15 pages and parts of two pages under the following exemptions:

- relations with other governments - section 15
- third party information - section 17
- solicitor-client privilege - section 19

The appellant appealed the Ministry's decision to deny access to the records. During mediation of the appeal, the appellant conformed that he is not seeking the personal information of other individuals, and the information on pages 7 and 10 which has been withheld pursuant to section 21 (invasion of privacy) is, therefore, no longer at issue in this appeal.

A Notice of Inquiry was sent to the appellant, the Ministry and a company whose interests could be affected by the outcome of the appeal (the affected party). Representations were received from the Ministry and the affected party.

## **DISCUSSION:**

### **THIRD PARTY INFORMATION**

The Ministry has applied this exemption to Records 26-33, but has not made representations in support of the application of this exemption.

For a record to qualify for exemption under section 17(1)(a), (b) or (c), the party resisting disclosure, in this case the affected party, must satisfy each part of the following three-part test:

1. the record must reveal information that is a trade secret of scientific, technical, commercial, financial or labour relations information; **and**
2. the information must have been supplied to the institution in confidence, either implicitly or explicitly; **and**
3. the prospect of disclosure of the record must give rise to a reasonable expectation that one of the harms specified in (a), (b) or (c) of section 17(1) will occur.

Although the affected party submits that the information contained in Records 26-33 pertains to its commercial interests, I find that the information is not directly connected to or associated with the buying, selling or exchange of merchandise or services and it is not, accordingly, properly

considered commercial information, nor would its disclosure reveal any commercial information. The first part of the test for exemption under section 17(1) has not, therefore, been met. As each part of the test must be satisfied in order for the affected party to successfully claim this exemption, I find that section 17(1) does not apply to Records 26-33.

## **RELATIONS WITH OTHER GOVERNMENTS**

The Ministry submits that section 15(a) of the Act applies to Records 13, 14, 23-25, 34 and 35, and that section 15(b) of the Act applies to Records 34 and 35. These sections read:

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

- (a) prejudice the conduct of intergovernmental relations by the Government of Ontario or an institution;
- (b) reveal information received in confidence from another government or its agencies by an institution

and shall not disclose any such record without the prior approval of the Executive Council.

Beyond indicating that the relations referred to are between the Ministry and the federal government, the Ministry has not explained what the relations are about, or how or why disclosure of the records would prejudice their conduct. Such a harm is not apparent to me on reading the records, and I find that the Ministry has not established its section 15(a) exemption claim.

With regard to section 15(b), the Ministry relies on section 18 of the Private Investigators and Security Guards Act, which states:

Any information received by the Registrar or the Commissioner in connection with an application or a record or return required under this Act or in the course of an inquiry or investigation authorized by this Act shall not be disclosed without the consent of the Commissioner.

The Ministry submits that the parties involved in the complaint had an expectation of confidentiality with respect to the information provided to the Registrar of Private Investigators and Security Guards.

Records 34 and 35 consist of a letter from the Department of Justice Canada to the Registrar of Private Investigators and Security Guards at the Ministry. I am satisfied that these records contain information which was received by the Registrar in the course of an investigation under the Private Investigators and Security Guards Act, and the Ministry is obligated to receive such information in confidence. Accordingly, I find that section 15(b) applies to Records 34 and 35.

Because of the manner in which I have addressed the application of section 15(b) to this information, it is not necessary for me to determine whether it is exempt from disclosure under the solicitor-client privilege exemption (section 19).

**ORDER:**

1. I order the Ministry to disclose Records 13, 14, 23-25 and 26-33 to the appellant by sending him a copy by **October 11, 1996** but not earlier than **October 7, 1996**.
2. I uphold the Ministry's decision not to disclose Records 34 and 35.
3. 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 records which are disclosed to the appellant pursuant to Provision 1.

Original signed by: \_\_\_\_\_  
Holly Big Canoe  
Inquiry Officer

\_\_\_\_\_ September 6, 1996