



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

ORDER P-1343

Appeal P_9600388

Ministry of the Solicitor General and Correctional Services



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NATURE OF THE APPEAL:

The Ministry of the Solicitor General and Correctional Services (the Ministry) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for all records relating to a named individual and/or a particular publication edited and published by this individual. The named individual has provided the requester with written consent for access to his personal information in the possession of the Ministry. The Ministry identified one record as responsive to the request, and denied access to it under a number of law enforcement exemptions.

The requester (now the appellant) appealed the Ministry's decision to deny access. Appeal P-9600220 was opened to deal with this matter.

During the inquiry for Appeal P-9600220, the appellant provided evidence which appeared to substantiate her claim that additional responsive records should exist. A supplementary Notice of Inquiry was sent to the parties dealing with the reasonableness of the Ministry's search for responsive records.

The Ministry located three additional records and denied access to them in their entirety. The appellant appealed this decision and Appeal P-9600388 was opened to deal with this decision. This order resolves the issues arising from that appeal.

A Notice of Inquiry was sent to the appellant and the Ministry. Representations were received from the Ministry only. The Ministry has made submissions on the application of the following exemptions:

- law enforcement - sections 14(1)(g) and 14(2)(a)
- invasion of privacy -section 21

The records at issue comprise 116 pages of information filed with the Intelligence Section of the Ontario Provincial Police (the OPP).

DISCUSSION:

LAW ENFORCEMENT

The Ministry has applied section 14(1)(g) of the Act to exempt the records in their entirety. This section states:

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

interfere with the gathering of or reveal law enforcement
intelligence information respecting organizations or persons;

In order for a record to qualify for exemption under this section, the matter to which the record relates must first satisfy the definition of "law enforcement". This term is defined in section 2 of the Act as follows:

- (a) policing,
- (b) investigations or inspections that lead or could lead to proceedings in a court or tribunal if a penalty or sanction could be imposed in those proceedings, and
- (c) the conduct of proceedings referred to in clause (b).

I find that the matters to which the records relate satisfy part (a) of the definition of “law enforcement”, as the records concern the collection and analysis by the OPP of information relating to crime.

In Order M-202, former Inquiry Officer Asfaw Seife defined “intelligence” information as:

... information gathered by a law enforcement agency in a covert manner with respect to ongoing efforts devoted to the detection and prosecution of crime or the prevention of possible violations of law, and is distinct from information compiled and identifiable as part of the investigation of a specific occurrence.

He applied this definition to a consideration of the exemption in section 8(1)(g) of the Municipal Freedom of Information and Protection of Privacy Act which is the equivalent of section 14(1)(g) of the Act. I agree with this approach and adopt it for the purposes of this appeal.

The Ministry submits that the information contained in the records was gathered by the Intelligence Branch of the OPP in relation to matters which were, and are still being investigated and/or monitored. The Ministry submits that it is essential that the extent of police knowledge about certain individuals and groups or illegal activities remains unknown, so as not to interfere with police efforts in the prevention of crime.

Having reviewed the records, I am satisfied that their disclosure could reasonably be expected to reveal law enforcement intelligence information. Accordingly, the records qualify for exemption under section 14(1)(g) of the Act.

Because of this finding, I need not consider the application of the other exemptions claimed by the Ministry.

ORDER:

I uphold the decision of the Ministry.

Original signed by: _____
Anita Fineberg

February 7, 1997

Inquiry Officer