



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

ORDER P-1304

Appeal P_9600304

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/Télééc: 416-325-9195
TTY: 416-325-7539
<http://www.ipc.on.ca>

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 associated with the Canadian Nazi Party. The named individual has provided the requester with written consent for access to his personal information in the possession of the Ministry. The Ministry granted the requester partial access to the records identified as responsive to the request, claiming the following exemptions to deny access to the remaining portions of the records:

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

The requester (now the appellant) appealed the Ministry's decision.

The records remaining at issue, denied in part or in their entirety, consist of 35 pages containing correspondence, transcripts of taped telephone messages, names and addresses and a photograph. Pages 35, 36, 37, 38, 39, 40, 41 and 17 to 20, all transcripts, are duplicates of pages 23, 24, 25 and 8 to 11 of the records, respectively.

A Notice of Inquiry was provided to the appellant, the Ministry and the individual named in the request. A number of other individuals are referred to in the records. They could not be contacted by this office, however, because the addresses listed were dated. Representations were received from the appellant and the Ministry.

In its representations, the Ministry indicates that it has reconsidered its original decision with respect to the application of section 14(2)(a) of the Act to the records and will not be providing representations on this issue. Accordingly, I will not deal with the application of section 14(2)(a) in this order.

DISCUSSION:

LAW ENFORCEMENT

The Ministry has applied section 14(1)(g) of the Act to the records. 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 matter to which the records relate satisfies part (a) of the definition of “law enforcement”, as it concerns a police agency’s collection and analysis of information relating to crime.

In my view, for the purposes of section 14(1)(g) of the Act, “intelligence” information may be described 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 violation of law, and is distinct from information which is compiled and identifiable as part of the investigation of a specific occurrence (Order M-202).

The Ministry submits that the information contained in the records was gathered by the Ontario Provincial Police’s (OPP) Criminal Investigation Bureau which was responsible for the investigation of alleged hate crime activity prior to the inception of the OPP’s Intelligence Section. The records themselves contain correspondence to and from members of the Criminal Investigation Branch with reference to the individual named in the request and others. The Ministry submits that the records are concerned with 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 respecting organizations or persons. Accordingly, the records qualify for exemption under section 14(1)(g) of the Act.

Because I have found that all of the records qualify for exemption under section 14(1)(g), it is not necessary for me to consider the application of the additional exemptions claimed for the records.

ORDER:

I uphold the Ministry’s decision.

Original signed by: _____
Holly Big Canoe

November 26, 1996

Inquiry Officer