



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

ORDER P-1391

Appeal P_9700025

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 (the Act) for access to incident reports of all assaults at a named detention centre for a two-year period ending October 9, 1996. The Ministry clarified the request with the requester, a newspaper reporter, who indicated that he was only interested in incident reports regarding physical assaults for the one year period between October 9, 1995 and October 9, 1996. The requester also indicated that he was not interested in obtaining access to any personal information that may be contained in the records.

The Ministry located 22 occurrence reports as being responsive to the request and denied access to them in their entirety pursuant to sections 14(2)(d) (correctional record) and 21(1)(f) (invasion of privacy) of the Act. The requester appealed the decision to deny access.

This office provided a Notice of Inquiry to the appellant and the Ministry. Representations were received from both parties.

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.

I have carefully reviewed the record and I find that it contains the personal information of the individuals who have been incarcerated and who are referred to in the record (the inmates). None of the records contains the personal information of the appellant.

As previously indicated, the appellant is not seeking access to the personal information of individuals (such as names and identifiers) contained in the record. I find that, in addition to the names of the individuals identified in the records, portions of the records also contain other information that could identify these individuals. This information, therefore, also constitutes their personal information.

The Ministry submits that removal of the personal identifiers would not be sufficient to protect the identity of the inmates and that knowledgeable individuals would be able to discern the identity of these individuals. While I accept this argument for certain statements contained in the records, I do not accept it for others. In the latter cases, once the "personal identifiers" in the records are removed, the remaining information loses its character as personal information as the materials cannot be related to identifiable individuals.

On the copy of the records which I have sent to the Ministry's Freedom of Information and Privacy Co-ordinator with this order, I have highlighted those portions of the records which constitute the personal information of identifiable individuals and which, therefore, fall outside the scope of this appeal. These portions of the records must **not** be disclosed to the appellant.

In my view, the remaining portions of the records do not contain 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 this category of information. Putting the matter somewhat differently, the disclosure of portions of the records which do not, themselves, constitute personal information would not represent an unjustified invasion of privacy. I find, therefore, that section 21(1) does not apply to the non-highlighted portions of the records.

The Ministry has raised section 14(2)(d) and I will now consider whether the correctional record exemption applies to the non-highlighted parts of the records.

CORRECTIONAL RECORD

Section 14(2)(d) states that a head may refuse to disclose a record that contains information about the history, supervision or release of a person under the control or supervision of a correctional authority.

The Ministry submits that the records contain information about the history and supervision of inmates who may still be incarcerated or on probation under the Ministry's supervision. The Ministry states that such occurrence reports are usually also filed in the correctional files of these individuals. The Ministry argues that the disclosure of some of the records may compromise the security of the centre as the information relates to the Ministry's investigation of alleged assaults involving inmates.

I have carefully reviewed the information that remains at issue. In my view, in order for a record to qualify for exemption under section 14(2)(d), it must contain information about the history, supervision or release **of a person** under the control or supervision of a correctional authority. In my view, the remaining information in the records does not relate to "a person" nor is it about "a person". Accordingly, I find that section 14(2)(d) does not apply to the remaining information in the records. The Ministry should disclose this non-highlighted information to the appellant. The highlighted portions of the records should **not** be disclosed to the appellant.

ORDER:

1. I uphold the decision of the Ministry to deny access to those portions of the records which I have highlighted in yellow on the copy of the records which I have sent to the Ministry's Freedom and Privacy Co-ordinator with a copy of this order.
2. I order the Ministry to disclose the **non-highlighted** portions of the records to the appellant by sending him a copy by **May 26, 1997**.

3. In order to verify compliance with 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 2.

Original signed by: _____

Mumtaz Jiwan

Inquiry Officer

_____ May 9, 1997