



Information and Privacy
Commissioner/Ontario

Commissaire à l'information
et à la protection de la vie privée/Ontario

ORDER P-1478

Appeal P_9700172

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

NATURE OF THE APPEAL:

A request was made to the Ministry of the Solicitor General and Correctional Services (the Ministry) under the Freedom of Information and Protection of Privacy Act (the Act) for a correction of information which relates to the requester or, should a correction not be made, that a notice of disagreement be attached to the record.

The information is contained within the parole file of an individual who asked for assistance from the requester in obtaining parole. The requester was informed that information relating to him was raised during the individual's parole revocation. The requester obtained written authorization from the individual to disclose the information contained in the parole file to him.

The Ministry refused to make the correction and notified the requester that the notice of disagreement provided by the requester was being attached to the file. The requester (now the appellant) appealed the Ministry's decision to refuse to correct the information.

This office sent a Notice of Inquiry to the Ministry and the appellant. In response to the Notice of Inquiry, both the appellant, through his representative, and the Ministry submitted representations.

PRELIMINARY ISSUE:

Throughout his representations, the appellant argues that the fact that the information contained in the file was provided to the Ministry constitutes an invasion of his privacy. This is not the issue that I have before me. If the appellant is concerned that his personal information may have been collected, used or disclosed inappropriately by an institution which is governed by the Act, his remedy is to make a privacy complaint to the Compliance Department of this office.

DISCUSSION:

PERSONAL INFORMATION

Section 2(1) of the Act provides, in part, that "personal information" means recorded information about an identifiable individual.

I have reviewed the parole file as provided by the appellant and I am satisfied that each of the documents contains some information that qualifies as the personal information of the appellant.

CORRECTION OF PERSONAL INFORMATION

Although I have found that the record contains the appellant's personal information, this still leaves the question of exactly what information in the record the appellant wishes to have corrected. Throughout the course of the appeal, a number of efforts were made to determine this.

On the date that the Notice of Inquiry was sent to the appellant, the Appeals Officer called the appellant's representative and asked her to clearly identify in her representations the information the appellant wishes to have corrected. However, the representations did not clearly identify specific information. The appellant's statement of disagreement refers to general categories of information.

Some of the information in the parole file was highlighted. The appellant's representative was contacted and asked if the highlighting indicated the information which the appellant wished corrected. The representative replied that the highlighting did not represent the information at issue but rather was information she wanted to bring to our attention. When specifically asked what information the appellant wanted corrected, his representative stated anything that makes reference to the drug trade "or whatever", anything "that the Ministry cannot prove."

Because the appellant's request for a correction of his personal information was very general and the Ministry responded in a general way, I will address **all** the appellant's personal information found in the record provided to me in making my decision.

Sections 47(2)(a) and (b) of the Act provide for correction requests and statements of disagreement relating to one's own personal information. These sections state:

Every individual who is given access under subsection (1) to personal information is entitled to,

- (a) request correction of the personal information where the individual believes there is an error or omission therein;
- (b) require that a statement of disagreement be attached to the information reflecting any correction that was requested but not made;

There is a difference in wording between sections 47(2)(a) and (b). Section 47(2)(a) indicates that individuals may **request** correction of their personal information, while section 47(2)(b) indicates that individuals may **require** a statement of disagreement to be attached to a record reflecting any correction which was requested but not made.

In particular, because section 47(2)(a) only provides a right to **request** a correction, it is my view that it gives the Ministry a discretionary power to accept or reject the correction request. I am reinforced in the view that section 47(2)(a) confers a discretionary power on the Ministry by the wording of section 47(2)(b), which compensates for the Ministry's discretion to refuse a correction request under section 47(2)(a) by allowing individuals who do not receive favourable responses to correction requests to **require** that a statement of disagreement be attached instead (Order M-777).

The appellant submits that he wishes to correct anything that the Ministry "cannot prove." The appellant appears to believe that in order to deal with his appeal, this office is required to

investigate his allegations that the contents of the records are incorrect, decide what actually transpired, and “correct” the records by ordering the removal of the information from the record.

In my view, if I were to adopt the appellant’s view of section 47(2), the ability of government institutions to maintain whole classes of records of this kind would be compromised in a way which the legislature cannot possibly have intended.

The parole file as provided by the appellant consists of a post-suspension report; case supervision notes; a letter addressed “To Whom it May Concern” indicating that the individual has permission to move; a violation report and “Post Suspension Reading Information” forms. Information about the appellant appears in the file by virtue of his association with the individual whose parole was in question.

The information relating to the appellant in the majority of the documents was obtained from professional sources or the individual on parole by an individual carrying out his or her duties. In one or two instances, the information reflects the interpretation or reporting of the information provided.

Records of this kind cannot be said to be “incorrect” or “in error” or “incomplete” if they simply reflect the information gathered whether or not this information is true. Therefore, in my view, whether the information is true or false is not an issue in this inquiry.

In Order 186, Commissioner Tom Wright set out the requirements necessary for granting a request for correction as follows:

1. the information at issue must be personal and private information;
and
2. the information must be inexact, incomplete or ambiguous; **and**
3. the correction cannot be a substitution of opinion.

Requirement 1 refers to the information being “personal and private” information. As I have indicated above, I am satisfied that the records contain the appellant’s personal information, and therefore, Requirement 1 is met.

Requirement 2 refers to the information being “inexact, incomplete, or ambiguous”.

The Ministry submits that after receiving the request for correction, it reviewed the documentary evidence on file. The Ministry states that the information was obtained from health care professionals who had been involved with the appellant. The Ministry states that it accepts their assessment of the appellant.

I have indicated above that documents of the type at issue cannot be said to be “incorrect” or “in error” or “incomplete” if they simply reflect the information gathered, in this case, the views of health care professionals, the probation and parole officer and the parolee regarding the appellant. These same considerations apply to whether the records can be said to be “inexact” or

“ambiguous”. The documents reflect the views of the individuals whose impressions are set out in them even though the appellant disagrees with those views. Therefore, I find that Requirement 2 has not been met.

Although I need not consider the third requirement, I note that many parts of the record which relate to the appellant can best be characterized as statements of opinion and their correction is precluded by Requirement 3 even though the appellant claims they are based on information which has been misinterpreted.

Accordingly, I uphold the Ministry’s decision to refuse the appellant’s correction request.

Previous orders have found that where a party who has been granted access to a record disagrees with information contained in the document, the appropriate remedy is provided by section 47(2)(b) of the Act. The requester may require an institution to attach a statement of disagreement to the information, reflecting any correction requested by the requester but not made by the institution. Under section 47(2)(c), the appellant is also entitled to require the Ministry to notify any person or body to whom the record has been disclosed, within the year before the time that a statement of disagreement is required, of the statement of disagreement.

The Ministry submits that a statement of disagreement has already been attached to the parole information effective June 16, 1997. The appellant has provided me with a copy of the statement. The Ministry also informs me that that the individual whose parole file contains the information has died and that the only agency to which the information has been disclosed in the year previous to the request for correction is this office in response to another appeal. Therefore, I find that the Ministry has fulfilled its obligations under sections 42(2)(b) and (c).

ORDER:

I uphold the decision of the Ministry.

Original signed by: _____
Marianne Miller
Inquiry Officer

_____ October 30, 1997