



**Information and Privacy  
Commissioner/Ontario**

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

# **ORDER P-1517**

**Appeal P-9700177**

**Ministry of Community and Social Services**



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## **NATURE OF THE APPEAL:**

The Ministry of Community and Social Services (the Ministry) received a request for access to information that was received by the Ministry from a named individual about the requester or prepared by the Ministry in addressing or responding to issues raised by the named individual about the requester.

The Ministry located a number of responsive records and denied access to them under the following sections of the Freedom of Information and Protection of Privacy Act (the Act):

- law enforcement - sections 14(1)(c) and (e)
- threaten safety or health - section 20
- invasion of privacy - section 21/49(b)
- deny requester's own information - section 49(a)

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

During the mediation of this appeal, the appellant agreed that 13 records that were identified by the Ministry as being non responsive to the request would not be at issue in the appeal.

A Notice of Inquiry was sent to the Ministry, the appellant and the named individual (the affected person). Representations were received from the Ministry and the affected person.

In their representations, the Ministry referred for the first time to the presumptions found in the following sections of the Act:

- medical or psychological diagnosis or treatment - section 21(3)(a)
- compiled as part of investigation into possible violation of law - section 21(3)(b)
- relates to eligibility for social service benefits - section 21 (3)(c)
- employment or educational history - section 21(3)(d)
- describes finances, income, assets - section 21(3)(f)

Because these sections had not been included in the Notice of Inquiry, the appellant was given an opportunity to provide representations on their application.

## **RECORDS:**

The records at issue in this appeal consist of fax transmittals and correspondence relating to the appellant and others from the affected person.

## 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. I have reviewed the records and the submissions of the Ministry and find that all of the records constitute the personal information of the appellant and other identifiable individuals, including the affected person.

Section 47(1) of the Act allows individuals access to their own personal information held by a government institution and the appellant, therefore, has a general right of access to those records which contain his personal information.

Section 49 sets out exceptions to this general right. Where a record contains the personal information of both the appellant and other individuals, section 49(b) of the Act gives the Ministry the discretion to withhold information from the record if it determines that disclosing that information would constitute an unjustified invasion of another individual’s personal privacy. On appeal, I must be satisfied that disclosure **would** constitute an unjustified invasion of another individual’s personal privacy.

Sections 21(2) and (3) of the Act provide guidance in determining whether disclosure of personal information would result in an unjustified invasion of the personal privacy of the individual to whom the information relates. Where one of the presumptions found in section 21(3) applies to the personal information found in a record, **the only way** such a presumption against disclosure can be overcome is where the personal information falls under section 21(4) or where a finding is made that section 23 of the Act applies to the personal information.

The appellant stated that he is not interested in any other individual’s personal information if it does not relate to him. In my view, there is no part of the records that relates solely to the appellant.

The Ministry states that the information at issue meets the criteria outlined in sections 21(3)(a), (b), (c), (d) and (f) of the Act. The Ministry also claims that the information relating to the appellant is so interwoven with information relating to other individuals that the records cannot be meaningfully severed.

Sections 21(3)(b), (c) and (f) of the Act state:

A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy where the personal information,

- (b) was compiled and is identifiable as part of an investigation into a possible violation of law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation;

- (c) relates to eligibility for social service or welfare benefits or to the determination of benefit levels;
- (f) describes an individual's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness;

I have reviewed the records and the representations of all the parties. I find that all of the records were either compiled and are identifiable as part of an investigation into a possible violation of law, relate to eligibility for social service benefits or describe an individual's finances and income. Accordingly, I find that the personal information in the records is subject to the presumptions in sections 21(3)(b), (c) and (f) of the Act. I agree with the Ministry that the appellant's personal information is so intertwined with that of other identifiable individuals that it cannot be severed.

I have considered the application of section 21(4) of the Act and find that none of the personal information at issue falls within this provision and the appellant has not claimed that section 23 applies in this case. I find that disclosure of the records **would** constitute an unjustified invasion of the personal privacy of other identifiable individuals. Therefore, they are exempt under section 49(b) of the Act.

Because of the way I have resolved the issues in this appeal, it is not necessary for me to consider the application of sections 14, 20, and 49(a).

**ORDER:**

I uphold the decision of the Ministry.

Original signed by: \_\_\_\_\_  
Marianne Miller  
Inquiry Officer

\_\_\_\_\_  
January 15, 1998