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

ORDER PO-2580

Appeal PA06-288

Ministry of Community Safety and Correctional Services

Tribunal Services Department
2 Bloor Street East
Suite 1400
Toronto, Ontario
Canada M4W 1A8

Services de tribunal administratif
2, rue Bloor Est
Bureau 1400
Toronto (Ontario)
Canada M4W 1A8

Tel: 416-326-3333
1-800-387-0073
Fax/Téléc: 416-325-9188
TTY: 416-325-7539
http://www.ipc.on.ca

NATURE OF THE APPEAL:

The requester submitted a request to the Ministry of Community Safety and Correctional Services (the Ministry) under the *Freedom of Information and Protection of Privacy Act* (the *Act*) for access to information related to an incident involving the Ontario Provincial Police (OPP) on June 12, 2006. In particular, the requester sought access to copies of:

> … occurrence report and any statements from witnesses and any related documents; including a full list of persons, government departments, or other offices or organizations who received copies of any of the documents relating to the occurrence report or any related documents.

The Ministry located responsive records and provided partial access to them. The Ministry denied access to portions of the records pursuant to sections 14(1)(e), 14(1)(l), 14(2)(a) (law enforcement), 15(b) (relations with other governments), 21(1), in conjunction with the factor in section 21(2)(f), and the presumptions in sections 21(3)(b), 21(3)(d) (invasion of privacy), 49(a) and 49(b) (discretion to refuse requester's own information) of the *Act*. The Ministry also indicated that certain information was removed from the records as it was not responsive to the request.

The requester, now the appellant, appealed that decision. This appeal underwent mediation, which did not resolve all of the issues and the appeal was subsequently forwarded to the adjudication stage of the process. The following sets out the issues that were dealt with during mediation and the preliminary stage of the adjudication process.

During the mediation process, the appellant advised that she is not appealing the decision to withhold OPP operational codes, which were denied under section 14(1)(l), provided that the code in question does not pertain to an expansion of the original investigation conducted by the OPP. Accordingly, in the Notice of Inquiry that I sent to the Ministry, I asked it to confirm that this is/is not the case before determining whether this exemption claim is at issue.

The appellant indicated further that she continues to appeal the Ministry's decision to deny access to the remaining portions of the records claimed to be exempt under section 49(a), in conjunction with sections 14(1)(e), 14(2)(a) and 15(b), and section 49(b), in conjunction with sections 21(2)(f), 21(3)(b), 21(3)(d).

During mediation, the appellant indicated that she is not appealing the Ministry's decision to exclude records that are non-responsive, provided they do not relate to the June 8 incident in any way. The mediator reviewed the portion of the records identified as non-responsive and noted that these portions of the records related to other incidents and other individuals, except for one line in the record that does refer to the appellant. The issue was raised with the Ministry and the Ministry agreed that this portion of the records was responsive to the request. The Ministry sent a supplementary decision dated December 19, 2006 to the appellant, confirming that this one line of page 10 is responsive to the request, but denying access to that portion of the records pursuant to sections 49(a), 14(1)(l) and 15(b) of the *Act*.

On review of page 10 of the records, I noted that it contains three separate references to the appellant. It appears that one reference had originally been identified by the Ministry (mid-page)

and that the one identified during mediation was located at the bottom of the page. There was one additional reference approximately 1/3 of the way down the page. The Ministry was asked to review this page in its entirety for completeness and, assuming that it agrees that this portion of the record is responsive to the request, to determine whether any exemptions apply to this reference. If the Ministry did not agree that the portion I identified was responsive, it was asked to submit representations accordingly.

Subject to the above, and based on the attention given to this issue during mediation, my review of the records and the appellant's willingness to remove this issue from the appeal, the remaining records identified as non-responsive are not subject to this appeal.

The appellant appealed the Ministry's decision, in part, on the basis that additional records should exist. The appellant supports her position that additional records exist because she noted that the OPP Trespass Notice dated June 12, 2006 was copied to the OPP Security Service, Toronto Police Service, and the Office of the Ministry for Public Infrastructure Renewal. As a result, it is her position that the records should include a copy of records sent to these offices.

The mediator advised the Ministry of the appellant's concerns on this point. Upon further review, the Ministry advised that there are no additional records. The Ministry indicated that the carbon copies (cc's) listed on the Trespass Notice that were given to the appellant by the OPP (page 15 of the responsive records), were inadvertently left on the notice through the use of an older Trespass Notice template. The Ministry confirmed that the cc's did not apply to the appellant's particular Trespass Notice.

The appellant maintained that additional records should exist and reasonable search remained an issue on appeal.

As the remaining issues in this appeal could not be resolved, the file was transferred to the adjudication stage of the process. I decided to seek representations from the Ministry, initially, and sent it a Notice of Inquiry setting out the facts and issues on appeal, including those identified above.

Following receipt of the Notice of Inquiry, the Ministry conducted an additional search for records, and more were located. The Ministry issued a supplementary decision letter on March 23, 2007, which addressed this additional information and other matters. In particular, the Ministry identified 5 additional pages of records (pages 16-22) and granted partial access to them. The Ministry indicated that the remaining information in these records was being withheld pursuant to section 49(a), in conjunction with sections 14(1)(e) and (l), and section 49(b), in conjunction with sections 21(2)(f) and 21(3)(b). On review of the additional records located by the Ministry, I note that some portions have also been withheld as non-responsive. I have reviewed these portions of the records and agree that they are not responsive to the appellant's request and are, in accordance with the appellant's earlier agreement, not at issue.

In addition, the Ministry indicated in its supplementary decision that it had decided to disclose further information from pages 3 and 9 of the records to the appellant, as well as the responsive information in page 10, including the additional line noted above with respect to this latter page. Accordingly, page 10 is no longer at issue as all but the non-responsive portions have been disclosed to the appellant. The remaining portions of pages 3 and 9 continue to be at issue.

The Ministry subsequently submitted representations in response to the Notice taking into account the additional decision in its March 23 letter to the appellant, and consented to sharing the vast majority of them with the appellant. The Ministry asked that certain portions of its representations be withheld from the appellant due to confidentiality concerns. I agreed with the Ministry's request.

In its submissions, the Ministry indicated that it was withdrawing its reliance on the discretionary exemptions at sections 14(2)(a) and 15(b), as well as the presumption at section 21(3)(d). Further, the Ministry clarified that it has claimed the discretionary exemptions at sections 14(1)(l) and 49(a) for more than the operational codes identified in the records. Accordingly, the exemption at section 14(1)(l) remains at issue in this appeal.

I provided the appellant with the non-confidential portions of the Ministry's representations, along with a copy of the Notice of Inquiry, amended to reflect the developments that followed the issuance of the first Notice to the Ministry. The appellant submitted representations in response. After reviewing all of the submissions and the records remaining at issue in this appeal, I am prepared to issue my order.

RECORDS:

The records remaining at issue are the undisclosed portions of an Occurrence Summary (page 1), a General Occurrence Report (pages 2-3) and one police officer's notes (pages 5-9 and 11-13), a Canadian Police Information Centre (CPIC) report (page 16), a driver's licence report (page 17) and an e-mail (page 18).

DISCUSSION:

SEARCH FOR RESPONSIVE RECORDS

Where a requester claims that additional records exist beyond those identified by the institution, the issue to be decided is whether the institution has conducted a reasonable search for records as required by section 24 [Orders P-85, P-221, PO-1954-I]. If I am satisfied that the search carried out was reasonable in the circumstances, I will uphold the institution's decision. If I am not satisfied, I may order further searches.

The *Act* does not require the institution to prove with absolute certainty that further records do not exist. However, the institution must provide sufficient evidence to show that it has made a reasonable effort to identify and locate responsive records [Order P-624].

Although a requester will rarely be in a position to indicate precisely which records the institution has not identified, the requester still must provide a reasonable basis for concluding that such records exist. The appellant indicates that the cc's at the foot of the Trespass Notice remain troubling, although she acknowledges that the detective that served her with the Notice provided a "hastily mumbled comment on the doorstep…recommending that we ignore them as a 'mistake'". In addition, the appellant notes that page 3 of the records that were disclosed to her indicates that a copy of the incident would be referred to 52 Division for reference.

In its representations, the Ministry sets out the steps it took to search for responsive records, at the time the request was first received, during mediation and again following receipt of the Notice of Inquiry.

The Ministry indicates that the Queen's Park OPP Detachment Security Service was contacted and asked to conduct a search for responsive records. This search was conducted by the Security Service Staff Sergeant who is an experienced employee, familiar with the record holdings of the OPP and the OPP Security Service. During his search, the Staff Sergeant contacted the Detective Constable who had investigated the incident involving the appellant and personally served the Trespass Notice. Fifteen pages of responsive records were located.

After reviewing the records, the Ministry again contacted the Staff Sergeant regarding a reference in the records to a telephone conversation he may have had with the appellant. The Ministry's representations indicate that the Staff Sergeant confirmed that he had a discussion and that he made notes of this conversation. The Ministry indicates further and that he reconfirmed this information following receipt of the Notice of Inquiry.

The records provided to this office did not include such a record. I asked an Adjudication Review Officer (ARO) to contact the Ministry to determine whether a record of this conversation existed. The Ministry advised that there was a clerical error in its submissions and subsequently provided this office with an amended page of its representations in which it stated that the Staff Sergeant confirmed that he made "no" notes of this conversation. I accept the Ministry's explanation that the misunderstanding was due to a clerical error and that a record of the conversation between the Staff Sergeant and the appellant was never created.

The Ministry indicates further that during mediation, it consulted with both the Staff Sergeant and the Detective Constable regarding the cc's at the bottom of the Trespass Notice. The Detective Constable confirmed that the cc's listed on that document were inadvertently left on the Notice when an older Trespass Notice template was used to produce the document. The Detective Constable confirmed that they did not apply to the appellant's case.

The Ministry asserts that following receipt of the Notice of Inquiry, the Staff Sergeant again confirmed that copies of the Trespass Notice were not sent to the Ministry for Public Infrastructure, the Constituency Office of David Caplan or the Toronto Police Service, 52 Division.

The appellant questioned the veracity of the Staff Sergeant's statement as one of the records disclosed to her clearly stated that a record was sent to 52 Division for reference. During the ARO's discussion with the Ministry, she raised the discrepancy between the statement in the record disclosed to the appellant and the Staff Sergeant's statement. The Ministry provided its response in writing.

The Ministry states that on February 14, 2007, the Detective Constable responsible for investigating the incident contacted the Toronto Police Service, 52 Division Community Response Unit. He was told that they did not have any records pertaining to the appellant's Trespass Notice on file. The Ministry reiterates the Staff Sergeant's statement that copies of the Trespass Notice were not sent to the Ministry for Public Infrastructure, the Constituency Office of David Caplan or the Toronto Police Service, 52 Division.

Finally, the Ministry states that following receipt of the Notice of Inquiry, the Staff Sergeant was again asked to conduct a search for responsive records. This time, he located three additional records which had been misfiled. One of the records originally identified indicated that it had been sent to three other OPP officers besides the Detective Constable. These other officers were contacted. Two confirmed that they did not retain any responsive records relating to the appellant. The third officer indicated that he had made a brief note and that record was obtained and provided to the appellant.

Based on the Ministry's submissions, I am satisfied that it has taken all reasonable steps to locate records in the area in which records would reasonably be expected to be located and that the search was conducted by staff who would likely know or be in a position to determine whether such records do or would likely exist. I am therefore satisfied that the Ministry's search for responsive records was reasonable in the circumstances.

PERSONAL INFORMATION

Under section 2(1) of the *Act*, "personal information" is defined, in part, to mean recorded information about an identifiable individual. To qualify as personal information, the information must be about the individual in a personal capacity. As a general rule, information associated with an individual in a professional, official or business capacity will not be considered to be "about" the individual [Orders P-257, P-427, P-1412, P-1621, R-980015, MO-1550-F, PO-2225]. Nevertheless, even if information relates to an individual in a professional, official or business capacity, it may still qualify as personal information if the information reveals something of a personal nature about the individual [Orders P-1409, R- 980015, PO-2225].

I have reviewed the records to determine if they contain personal information and, if so, to whom the personal information relates, and I make the following findings:

- Pages 16 and 17 contain the personal information of the appellant only. Accordingly, neither the mandatory exemption at section 21(1) nor the discretionary exemption at section 49(b) can apply to this information. The Ministry has claimed the application

of section 49(a) to this information, and I will consider the application of that exemption below;

- All of the remaining pages contain the appellant's personal information, as they pertain to the incident which resulted in a Trespass Notice being served on her;

- All of the remaining pages contain information about other identifiable individuals, including the other person involved in the incident and a number of witnesses. Although these individuals have been identified in their professional capacities, I find that the incident was of a personal nature and the individuals were involved in the matter in their personal capacities. Accordingly, the information about them in the records constitutes their personal information.

INVASION OF PRIVACY

Section 47(1) of the *Act* gives individuals a general right of access to their own personal information held by an institution. Section 49 provides a number of exceptions to this general right of access. Section 49(b) of the *Act* provides:

> A head may refuse to disclose to the individual to whom the information relates personal information,
>
> > if the disclosure would constitute an unjustified invasion of another individual's personal privacy;

In this case, I have determined that pages 1-3, 5-9, 11-13 and 18 contain the personal information of the appellant and other identifiable individuals.

Under section 49(b) of the *Act*, where a record contains the personal information of both the requester and another individual, and disclosure of the information would constitute an "unjustified invasion" of the other individual's personal privacy, the institution may refuse to disclose that information to the requester. On appeal, I must be satisfied that disclosure would constitute an unjustified invasion of another individual's personal privacy (see Order M-1146).

In determining whether the exemption in section 49(b) applies, sections 21(2), (3) and (4) 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. Section 21(2) provides some criteria for the head to consider in making a determination as to whether disclosure of personal information would result in an unjustified invasion of the personal privacy of the individual to whom the information relates. Section 21(3) lists the types of information whose disclosure is *presumed* to constitute an unjustified invasion of personal privacy. Section 21(4) refers to certain types of information whose disclosure does not constitute an unjustified invasion of personal privacy.

The Divisional Court has stated that once a presumption against disclosure has been established, it cannot be rebutted by either one or a combination of the factors set out in 21(2) [*John Doe v. Ontario (Information and Privacy Commissioner*) (1993), 13 O.R. (3d) 767], though it can be overcome if the personal information at issue falls under section 21(4) of the *Act* or if a finding is made under section 23 of the *Act* that a compelling public interest exists in the disclosure of the record in which the personal information is contained, which clearly outweighs the purpose of the section 21 exemption. (See Order PO-1764)

If none of the presumptions in section 21(3) applies, the institution must consider the application of the factors listed in section 21(2), as well as all other considerations that are relevant in the circumstances of the case.

In addition, if any of the exceptions to the section 21(1) exemption at paragraphs (a) through (e) applies, disclosure would not be an unjustified invasion of privacy under section 49(b).

If the information falls within the scope of section 49(b), that does not end the matter. Despite this finding, the institution may exercise its discretion to disclose the information to the requester. This involves a weighing of the requester's right of access to his or her own personal information against the other individual's right to protection of their privacy.

In this case, the Ministry has decided to deny access to the remaining portions of the records on the basis that they are exempt under section 49(b), in conjunction with the presumption at section 21(3)(b), which states:

> A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy if the personal information,
>
> > 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;

Representations of the Parties

The Ministry states that:

> The records remaining at issue contain personal information relating to the OPP investigation that was undertaken as a result of the June 8, 2006, incident involving the appellant. As can be noted from the content of the responsive records, the incident was initially investigated as a possible assault. Assault is an offence under section 265 of the *Criminal Code*.
>
> The Ministry submits that the application of section 21(3)(b) of the [*Act*] is not dependent upon whether charges are actually laid…

The appellant points out that it is clear from the records that were disclosed to her that the investigating officer decided "at the outset that 'no assault and no threats occurred during this incident…'". The appellant submits that any discussions or actions taken following the above statement to the other involved individual were carried out after it had been determined that no criminal offence had occurred. The appellant argues that these records were not compiled as part of an investigation into a possible violation of law.

Findings

The records all pertain to the incident involving the appellant and the other involved individual. Although the investigating officer provided the other involved individual with his views regarding the incident, it is clear from the records that additional investigations into the appellant and the incident were undertaken after he stated his views. The records reflect the nature and extent of the investigation that the police officer undertook at that time. It is also apparent from the records that the Trespass Notice was given to the appellant following these additional investigations. I find that the personal information at issue in the records was compiled and is identifiable as part of an investigation into a possible violation of law pursuant to the *Criminal Code*. The fact that no criminal charges were laid has no bearing on the issue, since section 21(3)(b) only requires that there be an investigation into a possible violation of law (Order PO-1849).

Accordingly, I find that the presumption in section 21(3)(b) applies to the personal information at issue, and that its disclosure is presumed to constitute an unjustified invasion of the personal privacy of the identifiable individuals in the records. Therefore, subject to my discussion below of the Exercise of Discretion, I conclude that disclosure of the personal information in the records would constitute an unjustified invasion of the personal privacy of identifiable individuals other than the appellant, and that this information qualifies for exemption under section 49(b).

Exercise of Discretion

As I noted above, the section 49 exemption is discretionary, and permits an institution to disclose information, despite the fact that it could withhold it. An institution must exercise its discretion. On appeal, the Commissioner may determine whether the institution failed to do so.

In addition, the Commissioner may find that the institution erred in exercising its discretion where, for example,

- it does so in bad faith or for an improper purpose
- it takes into account irrelevant considerations
- it fails to take into account relevant considerations

In either case this office may send the matter back to the institution for an exercise of discretion based on proper considerations [Order MO-1573]. This office may not, however, substitute its own discretion for that of the institution [section 54(2)].

The Ministry indicates that it considers each request for access to information on an individual case-by-case basis and that its historic practice, when responding to requests for personal information, is to release as much information as possible in the circumstances. The Ministry notes that over the life of this request and appeal, it has provided the appellant with three decision letters in which it has disclosed a substantial portion of the requested records. The Ministry indicates further that it considered whether disclosure of the remaining information would undermine public confidence in the ability of the OPP to provide policing services. As well, it took into consideration the fact that confidentiality of information in some instances is necessary for public safety and protection.

The appellant submits that she was never a threat to anyone and the withholding of the information at issue will encourage the other involved individual and the public generally to make false accusations for their own purposes, without fear of any consequences. She submits that withholding information undermines public confidence in the OPP as an unbiased police service, capable of investigating accusations strictly on their merits. The appellant continues:

> Indeed, the Trespass Order, and the subsequent withholding of these police records against us, as reported by the media at the time, has had a clear 'chilling' effect on the public who have a stake and interest in accountability in Special Education in Ontario. We have often heard the comment lately from Special Education advocates and parent groups to the effect the 'we've seen what happened to you when you spoke up and testified at Queen's Park'.

The appellant refers to a letter she wrote to the Ministry of Education about her concerns relating to the issuance of the Trespass Notice and indicates that as a result of that letter, the Trespass Notice was rescinded. The appellant submits that the records, particularly, the withheld information, provides the only explanation she has for the events that transpired.

It is apparent from the records, and particularly from the appellant submissions, to which she attached a number of background documents pertaining to her issues with the Ministry of Education and the other involved individual in this case, that her dispute is with the Ministry of Education and staff employed by it. The incident occurred in the context of this dispute, which resulted in the involvement of the OPP.

While the appellant is clearly upset at the way in which this matter escalated, she has received a considerable amount of information to enable her to understand the situation. She has been able to communicate her concerns to the Ministry of Education and has received some satisfactory results, in particular the rescinding of the Trespass Notice. I am not persuaded that withholding information compiled by the OPP as part of its investigation into the incident undermines public confidence in the OPP as an unbiased police service, capable of investigating accusations strictly

on their merits. The only information remaining at issue in this discussion is personal information that pertains to the involvement of other individuals in the incident. In denying access to the remaining portions of the records, I find that the Ministry exercised its discretion under section 49(b) in a proper manner, taking into account all relevant factors and not taking into account any irrelevant factors.

Consequently, I conclude that disclosure of the personal information in the records would constitute an unjustified invasion of the personal privacy of the individuals identified in them, other than the appellant, and they are properly exempt under section 49(b) of the *Act*.

LAW ENFORCEMENT/DISCRETION TO REFUSE REQUESTER'S OWN INFORMATION

Section 47(1) of the *Act* gives individuals a general right of access to their personal information held by a government body. Section 49 provides a number of exceptions to this general right of access, including section 49(a), which reads as follows:

> A head may refuse to disclose to the individual to whom the information relates personal information,
>
> > if section 12, 13, **14**, 14.1, 14.2, 15, 16, 17, 18, 19, 20 or 22 would apply to the disclosure of that personal information; [emphasis added]

In this appeal, the Ministry relies on section 49(a) in conjunction with section 14(1)(l) to deny the appellant access to the ten-codes, location and zone codes as well as computer transmission/access codes and numbers contained in the records. Section 14(1)(l) states:

> A head may refuse to disclose a record where the disclosure could reasonably be expected to,
>
> > facilitate the commission of an unlawful act or hamper the control of crime.

Except in the case of section 14(1)(e), where section 14 uses the words "could reasonably be expected to", the institution must provide "detailed and convincing" evidence to establish a "reasonable expectation of harm". Evidence amounting to speculation of possible harm is not sufficient (Order PO-2037, upheld on judicial review in *Ontario (Attorney General) v. Ontario (Information and Privacy Commissioner)*, [2003] O.J. No. 2182 (Div. Ct.), *Ontario (Workers' Compensation Board) v. Ontario (Assistant Information and Privacy Commissioner)* (1998), 41 O.R. (3d) 464 (C.A.)). In this appeal, the "detailed and convincing" standard applies in respect of section 14(1)(l).

Moreover, it is not sufficient for an institution to take the position that the harms under section 14 are self-evident from the record (Order PO-2040; *Ontario (Attorney General) v. Fineberg*).

Section 14(1)(l)

The Ministry states that section 14(1)(l) was used to remove the ten-codes, location and zone codes from the records. Citing Orders M-393, M-757, PO-1877, PO-2209 and PO-2394, the Ministry states:

> [D]isclosure of these operational police codes would leave OPP officers more vulnerable and compromise their ability to provide effective policing services…Intimate knowledge of the whereabouts of a given officer and of the activities that he/she is involved with at any given time would be a powerful aid to individuals involved with criminal activities.

With respect to the computer transmission/access codes and numbers contained on pages 16 and 17, the Ministry states:

> [D]isclosure of this information may reasonably be expected to leave the subject law enforcement computer systems more vulnerable to security breaches. Security breaches could lead to data corruption, compromise data integrity and result in unauthorized/illegal disclosures of confidential law enforcement and personal information.

This office has issued many orders regarding the release of Police codes and has consistently found that section 14(1)(l) applies to ten codes (for example, see Orders M-93, M-757, MO-1715 and PO-1665) as well as other coded information such as 900 codes (see Order MO-2014) and CPIC transmission access codes (Order P-1214). Many of these orders adopted the reasoning in Order PO-1665, where I found:

> In my view, disclosure of the "ten-codes" would leave OPP officers more vulnerable and compromise their ability to provide effective policing services as it would be easier for individuals engaged in illegal activities to carry them out and would jeopardize the safety of OPP officers who communicate with each other on publicly accessible radio transmission space.

I find that the rationale and conclusions in that order continue to be applicable. Similarly, I find that disclosure of the computer transmission/access codes found in pages 16 and 17 could reasonably be expected to facilitate the commission of an unlawful act, the unauthorized use of the information contained in the CPIC and licensing systems.

Moreover, given the difficulty of predicting future events in the law enforcement context and the nature of the information at issue, I find that the Ministry provided "detailed and convincing"

evidence to establish a "reasonable expectation of harm" with respect to the ten-codes, location, zone codes and computer transmission/access codes.

Based on the Ministry's explanations above regarding the exercise of discretion in this appeal, I find that the Ministry has satisfactorily explained its exercise of discretion in withholding this information. I therefore find that the ten-codes, location, zone and computer transmission/access codes contained in the records qualify for the exemption under section 49(a), in conjunction with section 14(1)(l) of the *Act*.

Severance

Where a record contains exempt information, section 10(2) requires a head to disclose as much of the record as can reasonably be severed without disclosing the exempt information. A head will not be required to sever the record and disclose portions where to do so would reveal only "disconnected snippets", or "worthless", "meaningless" or "misleading" information. Further, severance will not be considered reasonable where an individual could ascertain the content of the withheld information from the information disclosed (Order PO-1663, *Ontario (Minister of Finance) v. Ontario (Information and Privacy Commissioner)* (1997), 102 O.A.C. 71 (Div. Ct.)).

The Ministry has already disclosed as much of the records as can reasonably be released while still protecting the portions of the records that qualify for exemption under sections 49(a) and 49(b). I find that the remaining portions of the personal information of the other identifiable individuals contained in the records cannot be reasonably severed, as it is intertwined with that of the appellant. In addition, the portions withheld under section 49(a) are clearly distinguishable and only those portions subject to the exemption have been withheld.

Because of the decisions that I have made in this Order, it is not necessary for me to address the other exemptions claimed by the Ministry.

ORDER:

1. The search for responsive records was reasonable and this portion of the appeal is dismissed.

2. I uphold the Ministry's decision to withhold the information remaining at issue in the records.

Original Signed By: May 24, 2007
Laurel Cropley
Adjudicator