Information and Privacy Commissioner,
Ontario, Canada

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

ORDER PO-3060

Appeals PA08-170 and PA08-180

Ministry of Government Services

March 5, 2012

Summary: The appellant, a commercial heir tracer, sought access to marriage and death records of a number of identified deceased individuals. The Ministry of Government Services denied access to portions of the records, relying on the personal privacy exemption in section 21(1) of the *Act*. The presumption against disclosure in section 21(3)(h) applies to some of the information in the records. The unlisted factors of "diminished privacy after death" and "benefit to unknown heirs" ultimately weigh in favour of disclosure of some, but not all, of the other personal information at issue. The ministry is ordered to disclose portions of the records.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended, ss. 2(1), 21(1), 21(2)(f) & (h), and 21(3)(h).

Orders and Investigation Reports Considered: Orders PO-2998, PO-2979, PO-2877, PO-2876, PO-2807, PO-2497, PO-2198, PO-1923, PO-1866, P-1232, P-309 and MO-2467.

OVERVIEW:

[1] This order addresses the issues raised by requests submitted by a commercial heir tracer under the *Freedom of Information and Protection of Privacy Act* (the *Act)* to the Ministry of Government Services (the ministry). The request sought access to various marriage and/or death records relating to named deceased individuals. The ministry granted partial access to the records, but denied access to other portions on the basis that disclosure would result in an unjustified invasion of personal privacy under the mandatory exemption in section 21(1) of the *Act*.

[2] The appellant appealed the ministry's decisions to this office, which opened Appeals PA08-170 and PA08-180 and appointed a mediator to explore resolution of the issues. During mediation, the parties agreed to place the appeals on hold pending the release of the orders in two related appeals that raised similar issues between the ministry and the same appellant. Adjudicator Catherine Corban issued Orders PO-2876 and PO-2877 on March 19, 2010, and these two appeals were reactivated. The ministry subsequently issued revised access decisions regarding eight of the named individuals, while the appellant withdrew appeals relating to others.

[3] The requests were categorized in two groups: Group 1 for the requests related to records where no heirs had been identified for the named individuals; and Group 2 for the requests relating to records respecting named individuals for whom the Public Guardian and Trustee (PGT) had identified heirs. Throughout the course of the appeal and inquiry, the appellant has indicated that it would not pursue access to the withheld information in Group 2 files where the estate has already been distributed. This led to the removal of several of the files from the scope of the appeal based on updated information provided by the PGT to the ministry.

[4] Since it was not possible to resolve the appeals completely through mediation, they were transferred to the adjudication stage of the process where they were assigned to me to conduct an inquiry.

[5] Due to the similarities between the appeals, I decided to adjudicate Appeals PA08-170 and PA08-180 together. During my inquiry, I sought and received representations from the ministry and the appellant, and I asked both to specifically address Adjudicator Corban's analysis and findings in Orders PO-2876 and PO-2877. At the time it provided its initial representations, the ministry also issued a revised decision on February 14, 2011, disclosing additional information. After receiving the appellant's representations, I invited the ministry to provide reply representations, which I received. Subsequently, I issued Order PO-2998 in September 2011 in Appeal PA09-437, another appeal in which similar information from Group 2 records (identified heirs) and issues were also before me.[1]

[6] Prior to drafting this order to resolve Appeals PA08-170 and PA08-180, I asked staff from this office to follow up with the ministry to determine if there had been any further developments with respect to the information at issue in the remaining six estate files. The ministry advised me that the distribution of the estate of one additional individual (021-08) was imminent. Accordingly, I removed the Statement of Death relating to that individual from the scope of the appeal as the appellant does not seek access to information relating to distributed estates.

[1] No further revised decisions were issued subsequent to Order PO-2998 with respect to the files at issue in these two appeals.

[7] In this order, I find that certain portions of the statements of death are exempt pursuant to section 21(1), while other portions of those records and the remaining information on the statement of marriage must be disclosed to the appellant. This information either does not qualify as personal information according to the definition of the term in section 2(1) of the *Act* or a balancing of the applicable section 21(2) factors weighs in favour of its disclosure.

RECORDS:

[8] Remaining at issue in Appeals PA08-170 and PA08-180 is information from one Statement of Marriage (119-08) and four Statements of Death (019-08, 026-08, 043-08 and 096-08).

[9] From the Statement of Marriage, the signatures and addresses of witnesses are being withheld. From the four Statements of Death, the following information was withheld (variously):

- Social Insurance Number (all) [2]
- Date of birth (all)[3]
- Place of birth (all)
- Place of death, in part (026-08 only)
- Spouse's last name (019-08 & 026-08)
- Deceased's usual residence (all)
- Parents' names (026-08 only)
- Parents' birthplaces (026-08 only)
- Informant's name (019-08 & 026-08)
- Informant's relationship to deceased (019-08 & 026-08)
- Informant's signature (019-08 & 026-08)
- Informant's address (019-08 & 026-08)

ISSUES:

A. Do the records contain "personal information"?
B. If the records contain personal information, would disclosure result in an unjustified invasion of another individual's personal privacy under section 21(1)?

[2] In its representations, the appellant states: "S.I.N. is not relevant to identifying legal heirs and can therefore be redacted from any disclosure." I have interpreted this statement to amount to removing this type of information from the scope of the appeal. Some additional discussion follows.

[3] In the ministry's first revised decision letter of August 25, 2010, the deceased's date of birth and usual place of residence for file 043-08 was disclosed. In the further revised decision of February 14, 2011, this information was once again severed.

DISCUSSION:

A. Do the records contain "personal information"?

[10] In these two appeals, the ministry denies access to the withheld information on the grounds that the information is exempt under the mandatory personal privacy exemption in section 21(1) of the *Act*. The purpose of section 21(1) is to protect individuals against unjustified invasions of their personal privacy. However, in order to determine whether or not disclosure of the information would result in an unjustified invasion of personal privacy under section 21(1), I must first decide if the records contain "personal information" as that term is defined in section 2(1) of the *Act*. Only personal information can be exempt under section 21(1).

[11] The definition of "personal information" in section 2(1) refers to "recorded information about an identifiable individual," including, for example:

> (a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual,
>
> (d) the address, telephone number, fingerprints or blood type of the individual,
>
> (h) 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;

[12] The list of examples of personal information under section 2(1) is not exhaustive, however, and information that does not fall under paragraphs (a) to (h) may still qualify as personal information (Order 11). Sections 2(2) and (3) also relate to the definition of personal information. These sections state:

> (2) Personal information does not include information about an individual who has been dead for more than thirty years.
>
> (3) Personal information does not include the name, title, contact information or designation of an individual that identifies the individual in a business, professional or official capacity.

[13] Generally speaking, information associated with an individual in a professional, official or business capacity will not be considered to be "about" the individual.[4] Even if information relates to an individual in a professional, official or business capacity, it may

[4] Orders P-257, P-427, P-1412, P-1621, R-980015, MO-1550-F and PO-2225.

still qualify as personal information if the information reveals something of a personal nature about the individual.[5]

[14] The ministry submits that the withheld information qualifies as personal information under the section 2(1) definition because it fits within paragraphs (a), (c), (d) and (h).[6] In reference to the witnesses' signatures and addresses in the Statement of Marriage, the ministry submits that these qualify as personal information under paragraphs (d) and (h), following the reasoning in Order PO-2877.

[15] Regarding the information in the Statements of Death, the ministry also relies on Order PO-2877 in arguing that these records contain personal information about the deceased individuals, their spouse, the informant/deponent, and the deceased individuals' parents. The ministry submits that disclosing the spouses' names, for example, would also disclose their address and marital status, which is "personal information" under the definition in section 2(1) of the *Act.* According to the ministry, Order PO-2877 also supports a finding that each informant's name, signature, address, and relationship to the deceased constitutes "personal information" for the purpose of paragraph (d) of the definition in section 2(1).

[16] The ministry submits that the names and birthplaces of the deceased individual's parents for file 026-08 qualify as personal information according to paragraphs (a) and (h) of the section 2(1) definition because "it is likely that the parents have not been deceased for a period of thirty years or more as per subsection 2(2) of the *Act*…" The ministry indicates that it has made assumptions about the parents' ages based on the date of birth of the deceased: specifically, that based on the 1932 birth year of the deceased, the parents were born in or around 1912.

[17] The ministry refers to Order P-1232 in submitting that "it is not uncommon for an individual to live until 95 years of age and absent any evidence to the contrary, it must be presumed that an individual has lived until that age." In so doing, the ministry acknowledges but appears to challenge the approach taken in Orders MO-2467 and PO-2876 regarding a life expectancy of 59-61 for those born between 1920 and 1922.[7] I note here that although I have considered the ministry's submissions on life expectancy in their entirety, I do not set them out here. The ministry concludes these representations by stating:

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[5] Orders P-1409, R-980015, PO-2225 and MO-2344.

[6] However, as the reference to paragraph (c) relates only to the withholding of the S.I.N.s of the deceased individuals, and the appellant does not seek access to this information, the information is removed from the scope of the appeal.

[7] The ministry provided a Statistics Canada research paper titled "New birth cohort life tables for Canada and Quebec, 1801-1991" and further elaboration based on the paper to support its life expectancy submissions. This includes an assertion that "with rare exceptions, the average number of years lived by individuals has always been longer than the life expectancy found in the life table constructed for the year of their birth."

> … In keeping with the information contained in the cohort tables, the Ministry submits that parents born in or around 1912 could reasonably be expected to … live until age 85 or more. … Consequently, even with an age estimate of 85 years of age, the parents of the deceased individual could only be presumed dead in or around 1997 and therefore have not been deceased for a period of 30 years. The Ministry therefore considers the information of the parents identified to be their personal information.

[18] As part of the representations on whether the withheld information in the records is "personal information," the appellant refers to past orders of this office in which the requested information has been disclosed. For example, the appellant sets out an excerpt from Order PO-2298 where Adjudicator Frank DeVries found that the disclosure of certain personal information relating to a deceased individual would not constitute an unjustified invasion of that individual's personal privacy for the purpose of section 21(2)(f) and was not, therefore, exempt under section 21(1). As the appellant states:

> Therefore, even if any of the information on the death records might be seen as personal information, the disclosure of the information is justified.

[19] The appellant submits that "the very nature of agreeing to be a witness" means that those individuals acting in that capacity have volunteered to make their participation known and their names ought to be disclosed.[8] However, the appellant agrees that the addresses of the witnesses "may be personal information."

[20] The remainder of the appellant's submissions on this issue do not address the definition of personal information in section 2(1) of the *Act*, instead arguing that even if the information is "personal information," it ought to be disclosed for reasons of possible benefit to unknown heirs. These representations are outlined in greater detail in the next section of this order, which addresses the application of section 21(1).

[21] In reply, the ministry urges me to reject the appellant's "ends justify the means" representations, arguing that focusing on the purpose of the access request to justify disclosure does not resolve the question of whether the information qualifies as "personal information" according to the definition. The ministry also disputes the appellant's characterization of the witness information as anything other than "personal information," noting that merely acting as a witness to a marriage is "not akin to acting in a professional or business capacity."

[22] Having reviewed the information remaining at issue in the five records, I find that all but two types fit within the definition of "personal information" in section 2(1) of the *Act.*

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[8] Other submissions in this same vein are made under the heading for "diminished privacy interest after death," but are not relevant in that context and are not set out further.

[23] Specifically, with respect to the four deceased individuals whose statement of death records are at issue, I find that the following information about them constitutes their personal information under paragraphs (a), (d) and (h) of the definition in section 2(1): date of birth, place of birth, place of death, and deceased's usual residence. Contrary to the ministry's assertion, however, disclosure of the spouses' names would not, in the particular circumstances of files 019-08 and 026-08 also disclose the addresses of those two individuals. Nonetheless, I find that the death statements contain other information about the deceased individuals' spouses that qualifies as their personal information.

[24] The records also contain the "personal information" about other identifiable individuals, including the two witnesses listed on the statement of marriage and the name, signature, address and relationship to the deceased of the informants in the statements of death. I find that this particular information about these individuals also fits within paragraphs (a), (d) and (h) of the personal information definition.[9]

[25] The exception to my finding that the information in the records qualifies as personal information relates to the names and birthplaces of the parents of one of the deceased individuals whose statement of death is at issue (026-08). On this point, I am not persuaded by the ministry's representations that these individuals "could reasonably be expected to live to the age of 85 or more," and thus not yet have been dead for 30 years for the purpose of section 2(2) of the *Act.*

[26] Instead, I am persuaded by the reasoning in orders that support a contrary finding, that the parents of the deceased individual in file 026-08 can reasonably be expected to have been dead for thirty years or more. In Order PO-2877, Adjudicator Corban followed Adjudicator Donald Hale's approach in Order PO-2198, which was itself based on a review of Order PO-1886, where former Assistant Commissioner Tom Mitchinson reviewed "earlier decisions of this office in which certain assumptions about life expectancy were made to assist in establishing dates of death for individuals where this fact could not be determined from the records." Adjudicator Corban also relied on Adjudicator Colin Bhattacharjee's analysis in Order MO-2467, where he had to determine whether personal information contained in a public school's attendance registers from the years 1899 to 1964 fell within the exception in section 2(2) of the *Act*. Applying Adjudicator Bhattacharjee's reasoning to the situation before her in Order PO-2877, Adjudicator Corban wrote:

> In the circumstances of the current appeal, the statement of marriage identifies the ages of both the deceased and the groom and the year in which the marriage took place. From this information one can calculate the year of birth of both the deceased and the groom. In Order PO-1886, former Assistant Commissioner Mitchinson made the assumption that

[9] See also Orders PO-2877 and PO-2998.

> parents listed on a statement of death were 20 years old at the time of their children's births. In following that approach and applying that assumption, based on the year of birth of the deceased and the groom, it is possible to calculate that their parents would have been born in the early 1900's and be over 100 years old in 2010.
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> In Order MO-2467, based on figures from Statistics Canada Adjudicator Bhattacharjee established the average life expectancy of individuals born between the years 1920 and 1922 as 60 years. In this appeal, as the parents of the deceased and the groom were all born in the early 1900's, twenty years earlier than the individuals in Order MO-2467, assuming a life expectancy of 60 years is a conservative approach. However, as Statistics Canada does not identify life expectancy for individuals born prior to 1920 and it is difficult to determine a more accurate figure I will make such an assumption for the purposes of this appeal.
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> Accordingly, taking into account the approximate year of birth of the parents of the deceased and the groom, and assuming a life expectancy of 60 years, I find that it is reasonable to conclude that the parents of both the deceased and the groom have been dead for at least 30 years. On this basis, I find that pursuant to the exception at section 2(2), the groom's parents' names and birthplaces listed on the statement of marriage, and the deceased's parents' names and birthplaces listed on the statement of marriage and the statement of death, do not qualify as personal information within the meaning of the Act.

[27] I followed Adjudicator Corban's approach in Order PO-2998, finding that the place of birth of the deceased bride and groom's parents did not qualify as "personal information" according to the definition in section 2(1) of the *Act*. I acknowledge that Order PO-2998 was issued after the (same) parties provided their submissions in the present appeals. However, my findings in Order PO-2998 merely reflect the application of principles articulated in the line of orders preceding it, about which the parties were aware.

[28] I will again adopt this same approach with respect to my review of the parents' names and birthplaces on the statement of death in 026-08. As the ministry acknowledges, the deceased individual was born in 1932 and it likely that this individual's parents were born around or before 1912. Based on the assumed (Statistics Canada) life expectancy for this period, as applied in Orders MO-2467 and PO-2877, I am satisfied that the parents of the deceased individual died in or around 1972, which is 40 years ago. Accordingly, I find that the names and birthplaces of the parents of the deceased individual identified by the statement of death in 026-08 do not constitute "personal information" under the definition in section 2(1) of the *Act* because they fall under section 2(2) of the *Act.* Since only personal information can be withheld under

section 21(1) of the *Act*, and no other exemptions are claimed with respect to the parents' names and place of birth, I will order the ministry to disclose this information where it appears on the 026-08 statement of death.

[29] I will now consider whether the other information in the records that I have found to qualify as "personal information" is exempt under the personal privacy exemption in section 21(1).

B. Would disclosure result in an unjustified invasion of another individual's personal privacy under section 21(1)?

[30] Where a requester seeks access to the personal information of another individual, section 21(1) prohibits an institution from releasing this information unless one of the exceptions in paragraphs (a) to (f) of section 21(1) applies. If the information fits within any of paragraphs (a) to (f) of section 21(1), it is not exempt from disclosure under section 21.

[31] The appellant argues that section 21(1)(f) applies and that disclosure of the withheld information would not result in an unjustified invasion of another individual's personal privacy. While the section 21(1)(a) to (e) exceptions are relatively straightforward, section 21(1)(f) is more complex, and requires a consideration of additional parts of section 21, including the factors and presumptions in sections 21(2), (3) and (4), which help determine whether disclosure would or would not be an unjustified invasion of privacy under section 21(1)(f).

[32] If any of paragraphs (a) to (h) of section 21(3) apply, disclosure of the information is presumed to be an unjustified invasion of personal privacy under section 21. Once established, a presumed unjustified invasion of personal privacy under section 21(3) can only be overcome if section 21(4) or the "public interest override" at section 23 applies.[10] None of the exclusions in section 21(4) are claimed in this appeal and, in my view, section 21(4) has no application. Similarly, the public interest override also does not apply.[11]

[33] As suggested above, once a presumed unjustified invasion of personal privacy is established under section 21(3), it cannot be rebutted by one or more factors or circumstances under section 21(2) (*John Doe*). If no section 21(3) presumption applies, section 21(2) lists various factors that may be relevant in determining whether disclosure of personal information would constitute an unjustified invasion of personal privacy (Order P-239). This list is not exhaustive and the ministry was required to consider any circumstances that are relevant, even if they are not listed under section

[10] *John Doe v. Ontario (Information and Privacy Commissioner)* (1993), 13 O.R. (3d) 767 (*John Doe*).
[11] Section 23 of the *Act* has been found not to apply in previous orders featuring the same parties and similar records and issues. See Order PO-2876.

21(2) (Order P-99). The ministry and the appellant both claim that listed factors and other unlisted factors apply.

[34] Given the similarity of issues and information in these appeals with a number of other appeals, there are certain arguments by the ministry and the appellant that have previously been made to this office. Although I have reviewed these representations in their entirety, they are outlined only in summary form below for brevity's sake.

[35] Section 21(3)(h) states:

> A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy where the personal information,
>
> > indicates the individual's racial or ethnic origin, sexual orientation or religious or political beliefs or associations.

[36] The ministry submits that the birthplaces on the statements of death are exempt because past orders have established that information concerning an individual's birthplace can indicate their "ethnic origins" and therefore falls within the scope of the section 21(3)(h) presumption against disclosure (Orders PO-1923, PO-2198 and PO-2877).

[37] The appellant responds that the information relating to the birthplace of the deceased individual is not indicative of their racial or ethnic origin. The appellant notes that families frequently move from country to country for employment reasons and have children in other countries and one's place of birth cannot, therefore, be taken as a straightforward indicator of one's racial or ethnic origin.

[38] Many previous orders have reviewed the application of section 21(3)(h) to the types of information at issue in these records. In Order PO-2998, I introduced discussion of the exemption in the following way:

> … both parties have relied on submissions also made in previous appeals, but to different effect. This reflects the fact that the decision in any given appeal necessarily depends on the specific information at issue. For example, in this appeal, it is unnecessary for me to consider whether section 21(3)(h) applies to the birthplace of the parents of the bridal couple in light of my finding above that the information relating to them falls under section 2(2) of the Act and does not, therefore, qualify as personal information.

[39] The same holds true in the present appeal where the ministry has also argued that section 21(3)(h) applies to the birthplaces of the parents of the deceased individual in file 026-08. Since I found above that this information is not "personal information"

because it falls under section 2(2), it cannot qualify for exemption under section 21(1), and I will not review it further.

[40] However, based on my review of the four records for which section 21(3)(h) is claimed, I find that it applies to the birthplaces of three of the four individuals because disclosure of this information would also reveal the "ethnicity" of the individual to whom it relates. With respect to the birthplace of the remaining individual (096-08), I am not satisfied that disclosure of this person's birthplace would reveal information relating to ethnicity, and I find that section 21(3)(h) does not apply.

[41] As I stated previously, none of the exceptions in section 21(4) apply to this information and the public interest override is not applicable in this appeal. Therefore, I find that the disclosure of the birthplaces on the statements of death in files 019-08, 026-08 and 043-08 is presumed to be an unjustified invasion of privacy. Accordingly, this information is exempt under section 21(1) of the *Act.*

[42] As no other presumptions apply, I will now determine whether the remaining personal information about the deceased individuals and the witnesses are exempt based on consideration of the factors in section 21(2) of the *Act*.

Section 21(2) factors – listed and unlisted

[43] Section 21(2) of the *Act* lists factors to be considered when determining whether the disclosure of personal information constitutes an unjustified invasion of personal privacy. If consideration of the factors does not suggest favouring disclosure of the information, section 21(1) prohibits its disclosure.

[44] The ministry claims that the factors favouring non-disclosure at sections 21(2)(f) and (h) apply. These sections state:

> A head, in determining whether a disclosure of personal information constitutes an unjustified invasion of personal privacy, shall consider all the relevant circumstances, including whether,
>
> (f) the personal information is highly sensitive;
>
> (h) the personal information has been supplied by the individual to whom the information relates in confidence;

[45] As stated previously, the list of factors under section 21(2) is not exhaustive. The ministry was required to also consider any circumstances that are relevant, even if they are not listed under section 21(2) (Order P-99).

[46] In these appeals, the appellant does not rely on any of the listed factors in section 21(2)(a) to (d) (favouring disclosure) in arguing that the information ought to be disclosed. Rather, the appellant relies on several unlisted factors, which have been discussed in a number of previous appeals. Both the ministry and the appellant provide submissions on the relevance of the following unlisted considerations weighing in favour of, and against, disclosure:

- reasonable expectation of confidentiality;
- diminished privacy interest after death,
- identity theft; and
- benefit to unknown heirs.

Section 21(2)(f) – highly sensitive

[47] The ministry submits that the factor in section 21(2)(f) (highly sensitive) applies to the personal information at issue such as birthdates, witness names and addresses because its release "could be extremely harmful (and may have repercussions to others related to the individual…) if put to fraudulent use," such as the redirection of mail, fraudulent credit card applications and loans, or compromising those related individuals' choice of passwords. The ministry refers to "strong protections" for this information in the *Vital Statistics Act* (*VSA*)[12] because of its sensitivity and the desire to take precautions to prevent it from "getting into the wrong hands." The ministry submits that the information at issue must be considered current since the dates of death are only four to seven years ago (as of the date of the requests), and this means the informants should be presumed to be alive.

[48] The appellant argues that since society accords both legal and other rights and obligations consequent to the "highly public institution" of marriage, the disclosure of information pertaining to the marriage in this instance cannot "conceivably cause 'personal distress' to the deceased individual."[13] The appellant argues against disclosure of the marriage resulting in personal distress to the deceased individual's spouse, even if they are still alive. Regarding the personal information contained in the statements of death, the appellant submits that this personal information ought to be disclosed for the purpose of identifying legal heirs.

[49] In reply, the ministry submits that the appellant mischaracterizes the issue by presenting it as a dichotomy between marriage as a private or public institution. The

[12] R.S.O. 1990, c.V.4.

[13] In Order PO-2998 (issued following the submission of representations in the present appeal), I noted that the standard referred to by both parties as "excessive" personal distress had been modified by Senior Adjudicator John Higgins in Order PO-2518, issued in 2006. The disclosure of the personal information at issue must reasonably be expected to cause *significant* personal distress (Order PO-2998, at page 11).

ministry maintains that the issue involves determining whether revealing the specific personal information is an unjustified invasion of personal privacy.

[50] For personal information to be considered highly sensitive for the purposes of section 21(2)(f), I must be satisfied that disclosure of the information could reasonably be expected to cause significant personal distress to the subject individual (Order PO-2518).

[51] With consideration of the information in the records at issue, I am not persuaded by the evidence that it can be described as "highly sensitive" for the purpose of section 21(2)(f). In particular, I am not satisfied its disclosure could reasonably be expected to result in significant personal distress to the individuals to whom it relates: the witnesses and informants, the one living spouse, or the deceased individuals themselves. In view of my conclusion that there is nothing inherently sensitive about the personal information, I find that the factor favouring non-disclosure in section 21(2)(f) does not apply.

Section 21(2)(h) and the unlisted factor of expectation of confidentiality

[52] According to the ministry, section 21(2)(h) (provided in confidence) weighs against disclosure in view of the confidentiality guaranteed by the *VSA* and the overall statutory framework, which creates an expectation of privacy on the part of individuals supplying information. In this appeal, the ministry identifies affected individuals as the witnesses and informants. The ministry relies on *Cheskes v. Ontario (Attorney General)*[14] in asserting that the statutory framework in which records exist is an important factor and that it favours privacy protection.

[53] The ministry relies on Order PO-2877 where Adjudicator Corban found that section 21(2)(h) was a relevant factor in considering disclosure of the informant's name, address and relationship to the deceased. The ministry submits that this finding was based on consideration of the provisions of the *VSA* and the corresponding "reasonably held expectation that the information provided on the statement of death, including their own information, would be kept confidential *except when used for the purposes connected to the death of the individual to whom the statement related* (emphasis in original)." The ministry acknowledges that low weight was accorded to this factor because disclosure was found to be related to estate administration (i.e. a purpose connected with the individual's death). The ministry adopts the approach in Order PO-2877 in giving low weight to the factor in section 21(2)(h) where no heirs have been identified (Group 1) and moderate weight where some heirs have been identified (Group 2).

[14] [2007] O.J. No. 3515.

[54] The ministry also submits that the *VSA,* which governs the information at issue, affords the individuals identified in the records a reasonable expectation of privacy due to the strong confidentiality safeguards it contains, especially in sections 53(1), 45(1) and 45(2).[15] The ministry states that the unlisted factor of expectation of confidentiality ought to be considered an important factor meriting low weight against disclosure, as in Order PO-2877 where the same type of records were at issue.

[55] The appellant reiterates the ministry's acknowledgement that this office has found that the information should be kept confidential "except when used for purposes connected to the death of the individual to whom the statement relates, including the administration of her estate (Orders PO-1923 and PO-2877)." The appellant submits that this factor ought to be accorded low weight for all of the records, given that:

> [t]he statutory framework concerning the administration of both testate and intestate estates mandates transparency such that notice of any application to court for a Certificate of Appointment of Estate Trustee must be sent to all potential beneficiaries, with the name and address of all other beneficiaries.[16] … Therefore information which would assist an heir tracer … to identify legal heirs assures accountability of administrators of estates as was intentioned [sic] by the Rules governing the management of estates.

[56] Regarding the implications of the *Vital Statistics Act* alleged by the ministry, the appellant submits that this factor ought to be given little weight because the information provided in a marriage registration could reasonably be expected to be used in the context of the relationship of those individuals, including the settling of the estate of one or both of the individuals. However, the appellant's submissions relating to the relevance of the *VSA* in this appeal do not directly challenge the ministry's position respecting sections 53(1), 45(1) or 45(2). The appellant refers to Order PO-1923, where "the IPC gave little weight to section 21(2)(h) because of the 'nature of the information and the need to use it in ways which would require disclosure …'." The appellant also repeats the submissions about the public nature of marriage and the

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[15] Section 53(1) of the *VSA* states: No division registrar, sub-registrar, funeral director, person employed in the service of Her Majesty or other prescribed person shall communicate or all to be communicated to any person not entitled thereto any information obtained under this Act, or allow any such person to inspect or have access to any records containing information obtained under this Act. 2001, c. 21, s.11. Section 45 states: (1) No certified copy of a registration of birth, change of name, death or still-birth shall be issued except to a person authorized by the Registrar General or the order of a court and upon payment of the required fee; (2) No certified copy of a registration of marriage shall be issued except to one of the parties to the marriage or to a person authorized by the Registrar General or the order of a court and upon payment of the required fee. R.S.O. 1990, c. V.4, s. 45 (1) & (2); 1998, c. 18, Sched. E, s. 300 (2).

[16] The appellant refers to the Rules of Civil Procedure, made under the *Courts of Justice Act,* R.R.O. 1990, Reg. 194, ss. 74.04(2) and 74.05(2).

effect that ought to have on a reasonable expectation of confidentiality regarding the information provided on the registration.

[57] In Order PO-2998, I reviewed past decisions respecting the implications of the provisions of the *VSA* for the factors in section 21(2)(h) of the *Act,* as well as the unlisted factor of reasonable expectation of confidentiality. In my view, this analysis is helpful in providing the context for my finding in the present appeals, where the scope of the information remaining at issue is broader. Starting at page 13, I wrote:

> In Order PO-2497, I reviewed the possible application of the mandatory third party information exemption in section 17(1) to records describing formal arrangements between the Ministry of Health and Long-Term Care, the Ontario Medical Association and the Canadian Medical Protective Association for government reimbursement of professional liability insurance premiums paid by physicians.[17] The second part of the test for exemption under section 17(1) requires that the information have been supplied in confidence. With respect to section 17(1) and other exemptions requiring consideration of an expectation of confidentiality, this office has held that the expectation must be based on reasonable and objective grounds and that all the circumstances of the case must be considered. In Order PO-2497, the CMPA relied, in part, on the execution of a confidentiality and non-disclosure agreement to establish objective grounds for an expectation that the information at issue in that case would not be disclosed by the Ministry of Health and Long-Term Care. At page 40, I stated:
>
> > … I do not accord significant weight to the CMPA's submission with regard to the effect of MPLC members executing a confidentiality and non-disclosure agreement on August 13, 2004. **It is the reasonableness of the expectation of confidentiality held by the parties at the time the 2004 MOU was signed that is relevant to my determination.** I am paraphrasing the appellant's submission on this point in saying that it is difficult to see how the August 2004 non-disclosure agreement has any bearing on a record generated before that date [emphasis added].
>
> The ministry has provided no evidence respecting the statutory framework in place at the time the information was provided by the individuals identified in the affidavit and statement of marriage. In my view, the finding from Order PO-2497 set out above is relevant in the circumstances

[17] Order PO-2497; upheld in *Canadian Medical Protective Association v. John Doe*, [2008] O.J. No. 3475 (Div. Ct.) at paras. 59-62.

of this appeal where the ministry is relying on a provision in a statute that was enacted many decades after the information at issue was collected.

From my review, section 53(1) of the *Vital Statistics Act* first appeared in that statute in 1991. In my view, therefore, this particular provision does not assist the ministry in establishing that information collected at the time of the marriage in 1958 was either provided in confidence or that those providing it had a reasonable expectation that it would be held confidentially. Importantly, the circumstances of this appeal are distinguishable from those before former Assistant Commissioner Tom Mitchinson in Order P-309, where section 45(1) of the *Vital Statistics Act* (relating to restrictions on disclosure of birth registration information under that statute) was found to be a relevant consideration for the purpose of section 21(2)(h). In that appeal, the provision relied on by the institution was enacted in 1990, which pre-dated the request for "access to a list of the names, dates of birth and addresses of all babies born in Ontario in 1991."

Moreover, I note that in Order PO-2877, Adjudicator Catherine Corban found the ministry's arguments respecting the *Vital Statistics Act* persuasive in relation to the name and address of an individual who provided information upon the death of another individual on the statement of death form. In that appeal too, the information on the statement of death was provided after the enactment of the provision relied on by the ministry in this appeal. In any event, Adjudicator Corban accorded the factor low weight because

> … disclosure of the information would be for purposes connected to the death of the individual to whom the statement relates, in particular, the administration of her estate, and following Order PO-1923, I find that the section 21(2)(h) factor carries low weight in these circumstances.

Furthermore, while Adjudicator Corban accepted that the *Vital Statistics Act* was relevant in her appeal, she disagreed

> … with the Ministry's suggestion that the information at issue constitutes a "biographical core of personal information" that would reveal intimate details of the lifestyle and personal choices as considered by the Supreme Court of Canada in *Schreiber*.[18]

[18] *Schreiber v. Canada (Attorney General)*, [1998] S.C.J. No. 42.

> I accept the argument that the statutory framework under which information is collected is important. However, on the facts of this appeal, it is difficult to see how a provision enacted in 1991 could have any bearing on information created and/or collected long before that date. Instead, I take the view that the reasonableness of an expectation of confidentiality must be ascertained by the circumstances existing at the time the information was provided. Accordingly, based on my analysis of this issue, I reject the ministry's submission that the confidentiality provision in the *Vital Statistics Act* provides a statutory basis that supports the application of the factor in section 21(2)(h) or the unlisted factor relating to an expectation of confidentiality as regards the information at issue here. …
>
> Further, I also find that the information remaining at issue – the citizenship of the deceased bridal couple, their signatures and the witnesses' signatures and addresses (as provided in 1958) – do not constitute a "biographical core of personal information," as contemplated by the Supreme Court of Canada in *Schreiber.*

[58] I adopt this analysis in my review of the records and the personal information at issue in the present appeals.

[59] In the context of the analysis in Orders PO-2998 and PO-2497, I am not persuaded that section 21(2)(h) and the unlisted factor relating to a reasonable expectation of confidentiality applies to the personal information of the witnesses contained in the statement of marriage, which predates the legislative provisions in the *VSA* relied on by the ministry by 20 years.

[60] With regard to the personal information contained in the statements of death (related to individuals who died in 2004 or 2006), however, I find that both of these factors that weigh in favour of non-disclosure of the information are relevant. However, I also find that the personal information does not constitute a "biographical core of information." In view of the nature of the information and the fact that its disclosure would be for purposes connected to the death of the individual to whom the statements relate – i.e. estate administration - I find that section 21(2)(h) and the unlisted factor of expectation of confidentiality attracts low weight. Therefore, I find that these two factors carry low weight in favour of non-disclosure of all of the information at issue.

Unlisted factor - diminished privacy interest after death

[61] Regarding the unlisted factor favouring disclosure of diminished privacy interest after death, the ministry submits that its application is highly fact specific and it must be applied with great care. The diminished privacy interest after death principles applies only to the personal information of the deceased, not to others who may be associated

with the deceased. The ministry claims that where there is no evidence to establish that an individual is dead, such as with the deceased individuals' spouses, or the witnesses or informants, this factor is not relevant in determining whether disclosure would result in an unjustified invasion of their personal privacy (Orders P-1232 and PO-2877).

[62] The ministry asserts that in considering the diminished privacy interest after death in relation to the deceased individuals, and based on the discussion in Order PO-2877, moderate weight should be given to the factor because these individuals died, for the most part, in 2006. The ministry refers to the finding of Adjudicator Corban according moderate weight to this factor for the deceased's date of birth, place of death, and usual residence in Order PO-2877 where the individual died that same year. The ministry submits that where the identified spouse is deceased,[19] the same weight for this factor should be given to the deceased's spouse's information as was given the deceased because the ministry cannot confirm when the spouse died.

[63] The appellant relies on Orders PO-1717 and PO-1936, where former Assistant Commissioner Tom Mitchinson concluded that the privacy interests of individuals diminishes with their death and that these interests are further reduced with the passage of time. The appellant submits that the information it seeks to have disclosed "is not highly sensitive and in circumstances where, it has been consistently held, there is a reduction in the privacy interests of the deceased individual." The appellant also submits that in the case of the individual whose spouse is also deceased, the privacy interests of the deceased spouse are commensurately diminished and the information should be disclosed.

[64] Past orders have found the concept of "diminished privacy interest after death" to be a circumstance weighing in favour of disclosure. Generally, where more than one year has passed since the date of death, this factor has attracted moderate weight.[20] In the circumstances of these appeals, I accept that the unlisted factor of a "diminished privacy interest after death" applies upon the death of the individual to whom the information relates. Therefore, the factor weighs in favour of disclosure of the personal information relating to the deceased individuals whose statements of death are at issue, as well as the personal information (last name) of the deceased spouse of one of these individuals (019-08). With regard to this information about the deceased individuals (their dates of birth, the place of birth for file 096-08, place of death for file 026-08, and the deceased's usual residence), I find that this unlisted factor weighing in favour of disclosure applies and that it ought to be attributed moderate weight.

[65] However, regarding the personal information of the one spouse (026-08), the witnesses identified on the statement of marriage and the informants (019-08 and 026-

[19] This ministry notes that this fact would be known because the deceased individual is categorized as a widow.

[20] Order PO-1736 [upheld on judicial review in *Ontario (Public Guardian and Trustee) v. Goodis*, cited above (footnote 15)]; and Orders PO-1936, PO-2260, PO-2623, PO-2877, PO-2979 and PO-2998.

08), there is no evidence before me that these individuals are deceased. In the absence of such evidence, I am proceeding on the basis that these individuals are still living.[21] Since there is no evidence of their deaths, I find that the unlisted factor of "diminished privacy interest after death," does not apply to the personal information relating to them.

Unlisted factor - identity theft

[66] According to the ministry, the unlisted factor of identity theft is relevant in this appeal because the use of the deceased's information "may have an impact on those related to the deceased who are still living," particularly because the information is relatively current. The ministry expresses agreement with the approach to this issue it claims was taken by Adjudicator Corban in PO-2877; on this basis, the ministry states that it has attributed significant weight to the factor against disclosure of all of the information, including the information about the informants.

[67] Respecting the relevance of the identity theft factor to the spouse's last name, the ministry submits that this information must be viewed in conjunction with other information in the records at issue, such as the deceased individual's address ("usual residence"), which may be current and should be accorded weight because of the increase in risk "with every disclosure made." The ministry submits that:

> with enough identifying information about an individual, a criminal can take over that individual's identity to conduct a wide variety of crimes: for example, false applications for loans or credit cards. The ministry submits that disclosing unnecessary personal information of individuals contained in the records at issue … may help facilitate fraudulent activity.

[68] The ministry acknowledges that information in the statement of marriage may be "somewhat dated," but maintains that the unlisted factor of identity theft ought still to be accorded some weight in relation to it "as individuals can live at the same address for a number of years." The date of the marriage is 1971 and the ministry submits that this date yet merits "some weight" against disclosure.

[69] The appellant submits that the types of personal information sought in these appeals is similar to the undisclosed information in 14 death registrations sought in Order PO-2198, where the IPC found that the "personal information contained in [the] records relating to the deceased persons and their parents is, to say the least, sparse." The appellant argues that as in Order PO-2198, the personal information at issue here could not reasonably be used to commit identity theft or other fraudulent activity. The appellant also relies on Order PO-2877, where Adjudicator Corban accepted these

[21] See Orders P-1232 and PO-2877.

particular submissions in finding that the personal information at issue there could not reasonably be expected to be of use for identity theft.

[70] Additionally, the appellant argues that disclosure of the personal information at issue is not tantamount to disclosure to the world since it (the appellant) is bound by the provisions of the federal *Personal Information Protection and Electronic Documents Act* (*PIPEDA*).[22] The appellant notes that the *PIPEDA* imposes limitations on its use, disclosure and retention of information, and requires the protection of the information received. For these reasons, the appellant submits that this factor ought to be accorded little or no weight.

[71] The submissions provided by the parties reflect ones made in previous appeals with varying degrees of effectiveness, depending on the actual information at issue.

[72] Based on the nature and the age of the information remaining at issue in the marriage statement, I adopt the approaches taken in Orders PO-2998 and PO-2877. In my view, given that the signatures and addresses of the witnesses were recorded in 1971, it is likely that the passage of time has lessened both its sensitivity and the likelihood of the continuing accuracy of the addresses. Accordingly, I find that the unlisted factor of identity theft is a relevant consideration, but that it should be attributed very low weight.

[73] Turning to this factor's application to the statements of death, I note that the ministry expresses agreement with Adjudicator Corban's finding that significant weight should be accorded to the identity theft factor in Order PO-2877. I note, however, that in Order PO-2877, the social insurance numbers on the death statements were at issue.[23] In these appeals, the appellant has indicated that the social insurance numbers "can be redacted;" that is, they are no longer at issue. This reduces the scope of the information sought with respect to these records and, consequently, has implications for whether or not the composite of the information sought should be considered "core" information about the deceased individuals that heightens the threat of "identity theft." In my view, the narrowing of the scope of the information sought carries with it implications for the weight attributed to the unlisted factor for identity theft.

[74] The personal information at issue relating to the four deceased individuals and related individuals was provided between six and eight years ago. The birthdates and usual residence of all four individuals remains undisclosed, as does certain information for some of the individuals; namely, place of birth (096-08), place of death (026-08) and spouse's last name (019-08 and 026-08). In my view, it is worth noting that in the requests submitted for these records, the appellant listed the birthdate and place of

[22] S.C. 2000, c. 5.

[23] In many previous orders of this office, the decision not to disclose social insurance numbers based on section 21(1) of the *Act* has been upheld: Orders PO-2877, PO-2807, PO-2636-I, PO-1717, PO-2298 and PO-2802-I.

birth of each of the deceased individuals, as well as the place of death for file 026-08, all information that was withheld by the ministry.[24] Further, I note that the ministry challenged Adjudicator Corban's finding that disclosure of the deceased individual's spouse's surname "could not reasonably be used to assist in perpetrating "identity theft," arguing that this information was taken out of context and ought to have been looked at as part of the composite of information disclosed. According to the ministry, the risk of identity theft increases with the number of fields (types of information) disclosed. However, I am not persuaded by these submissions that a different finding on this point is warranted, particularly as I have reviewed the information already disclosed, as well as that which is at issue in each of the particular death statements. In my view, these types of information could not reasonably be appropriated and used in a manner that would facilitate identity theft. Accordingly, for the "sparse" information outlined above relating to the four deceased individuals, and the surnames of the spouses of two of the deceased individuals (019-08 and 026-08), I find that the unlisted factor for identity theft does not apply.

[75] However, I have reached a different conclusion with respect to the personal information about the informants severed from two of the death statements (019-08 and 026-08). As was the case in Order PO-2877, this particular information on the two death statements (informant's name, address, signature, date of birth and relationship to the deceased) was provided in 2006. This information is six years old and it is, in my view, not unreasonable to assume that this information is current. I also conclude that the information could plausibly be used for the purpose of identity theft or to commit fraud. For this information, I accept that the unlisted factor of identity theft is relevant, but I find that it carries only low to moderate weight.

Unlisted factor - benefit to unknown heirs

[76] The ministry notes that the unlisted factor of benefit to unknown heirs is highly dependent on the particular circumstances of each individual appeal (Order PO-2240). With regard to the records relating to individuals for whom no heirs have been identified (026-08, 043-08, 096-08, 119-08), the ministry has given this factor moderate weight and "has already disclosed as much information as possible." Respecting the record of the individual for whom heirs have already been identified (019-08), the ministry submits that this factors deserves less weight on a comparative basis.

[77] The ministry also addresses the potential weight to be accorded to this factor, based on the age of the information, noting that in Order PO-2877, Adjudicator Corban attributed less weight to the information at issue from the statement of marriage because it was more than 50 years old and therefore less likely to assist the appellant in locating next of kin. In summary, the ministry submits that the factor deserves moderate to low weight in reference to the statement of marriage (119-08), moderate

[24] Regardless, due to the operation of the presumption against disclosure in section 21(3)(h), I have found that this information is exempt except with respect to 096-08.

to high weight to the death statements where no heirs have been identified, and low weight in relation to the one statement of death where heirs have already been identified (019-08).

[78] Referring to the recognition this office has given to the unlisted factor of benefit to unknown heirs in past orders such as PO-1923, PO-1936, PO-2260, PO-2298 and PO-2877, the appellant submits that disclosure of the personal information at issue in this appeal could lead to individuals successfully proving their entitlement to the assets of these estates. For this reason, the appellant submits that the factor is relevant.

[79] The possible application of the unlisted factor "benefit to unknown heirs" has been considered on many occasions in respect of these same parties and found to apply as a relevant consideration weighing in favour of disclosure of the information. Further, it is well settled that the weight that should be attributed to this circumstance is fact-specific and highly dependent on the particular circumstances of each record (see Order PO-2240).

[80] The ministry does not dispute that this unlisted factor is relevant and applicable to all of the personal information remaining at issue in the records before me, including records related to deceased individuals for whom some heirs have been identified. This position is in accordance with a number of previous orders that have held that the possible existence of additional potential heirs to an undistributed estate is sufficient to support a finding that the factor is relevant.[25] In Order PO-2807, Adjudicator Jennifer James stated it succinctly:

> … In my view, evidence that the OPGT may have located one of the deceased's next-of-kin, does not demonstrate that all of the rightful heirs have been located or that disclosure of the personal information at issue would not result in a benefit to an unknown heir.

[81] Past orders have also established that the weight to be accorded to the factor depends on the age of the particular information, and its importance to the task of identifying potential heirs.[26] In my view, since the personal information remaining at issue in the statement of marriage (the witnesses' signatures and addresses) was provided more than 40 years ago, it is less likely to assist the appellant in locating next of kin.

[82] However, I agree with Adjudicator James' comment in Order PO-2807 that "personal information, including the names, about individuals who may have a family connection with the deceased could reasonably be expected to assist in the identification of potential heirs." Accordingly, I find that this unlisted factor weighs

[25] Orders PO-2807, PO-2979 and PO-2998.
[26] Orders PO-2198 and PO-2807.

moderately in favour of disclosure of the witnesses' information on the statement of marriage because its disclosure could help locate potential heirs.

[83] I also find that the unlisted factor of benefit to unknown heirs applies to the personal information remaining at issue in the statements of death. Having specifically considered the personal information provided on these records (now six years old), including the possible connection of the informants with the deceased, I am satisfied that where no heirs have been identified, the factor ought to be accorded significant weight, and that with respect to the one statement of death where heirs have already been identified (019-08), moderate weight is merited.

Balancing of the section 21(2) factors

[84] In summary, and with regard for the personal information at issue, the parties' representations and past decisions of this office, I confirm my finding above that the factor in section 21(2)(f) favouring non-disclosure does not apply in the circumstances of this appeal. Based on my analysis of section 21(2)(h) and the unlisted factors above, I have reached the following conclusions with respect to the application of, and weight to be attributed to, them:

- Section 21(2)(h) supplied in confidence (favours non-disclosure) – this factor does not apply to the statement of marriage, but does apply to the personal information in the statements of death and is attributed low weight;
- Reasonable expectation of confidentiality (favours non-disclosure) – this unlisted factor does not apply to the statement of marriage but does apply to the personal information in the statements of death and attracts low weight;
- Diminished privacy interest after death (favours disclosure) – this factor applies to the personal information of the deceased individuals, as well as the personal information (last name) of the deceased spouse of one of these individuals (019-08). Moderate weight is attributed to the factor regarding the deceased individuals' dates of birth, the place of birth for 096-08, place of death for 026-08, spouse's last name (019-08), and the deceased's usual residence. The factor does not apply to the personal information of individuals for whom there is no evidence of their death: the witnesses on the statement of death, the informants on the statements of death (019-08 and 026-08) and the last name of one spouse (026-08);
- Identity theft (favours non-disclosure) – the factor does not apply to the personal information about the four deceased individuals, and the surnames of the spouses of two of the deceased individuals (019-08 and 026-08), but does apply to the personal information relating to the witnesses with very low weight and also to the personal information of the informants (019-08 and 026-08), with low to moderate weight; and
- Benefit to unknown heirs (favours disclosure) – this factor applies to all of the personal information remaining at issue; it attracts moderate weight for the

witnesses' signatures and addresses on the statement of marriage, and the one statement of death where heirs have already been identified (019-08), and high weight with respect to the other statements of death where no heirs have been identified.

[85] Accordingly, based on the application of, and the weight attributed to, the factors outlined above, I find that the disclosure of the witnesses' signatures and addresses on the statement of marriage, the dates of birth, the place of birth for 096-08, the place of death in 026-08, the spouses' last names for 019-08 and 026-08, and the usual residences of the deceased individuals would not constitute an unjustified invasion of the privacy of those individuals for the purposes of section 21(1) of the *Act*. I will order the ministry to disclose this information to the appellant.

[86] With respect to the names, relationship to deceased, signature and address of the informants for 019-08 and 026-08, the factors proved much more evenly balanced. However, while the factor for benefit to unknown heirs warranted more significant weight in favour of disclosure, the combination of the other factors weighing against disclosure - section 21(2)(h), reasonable expectation of confidentiality and identity theft - tip the balance in favour of privacy protection. Accordingly, I find that the disclosure of the informants' personal information would result in an unjustified invasion of their personal privacy under section 21(1) of the *Act*.

[87] As with the places of birth on the death statements for 019-08, 026-08 and 043-08 that I found above to be exempt under section 21(1), with reference to the presumption in section 21(3)(h), section 21(4) also does not apply to the informants' personal information. Further, and as stated previously, the public interest override is not relevant in this appeal, and I therefore find that the personal information of the informants qualifies for exemption under section 21(1) of the *Act*, and should not be disclosed to the appellant.

ORDER:

1. I order the ministry to disclose the portions of the records that are not exempt by **April 11, 2012** but not before **April 4, 2012**.

2. I uphold the ministry's decision to withhold the remaining portions of the records, namely the birthplace identified in 019-08, 026-08 and 043-08 and the personal information of the informants on 019-08 and 026-08.

3. In order to verify compliance with the terms of this order, I reserve the right to require the ministry to provide me with a copy of the information disclosed to the appellant pursuant to order provision 1.

Original signed by: March 5, 2012
Daphne Loukidelis
Adjudicator