

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER PO-3242

Appeal PA12-164

Ministry of Community Safety and Correctional Services

August 27, 2013

Summary: The ministry received a request for records relating to a motor vehicle accident that resulted in the death of the requester's husband. After conducting third party notifications, the ministry granted access, in part, claiming the discretionary exemptions in sections 49(a), in conjunction with sections 14(1)(l) (facilitate commission of an unlawful act) and 14(2)(a) (law enforcement report), and 49(b), in conjunction with section 21(1) (personal privacy) to the undisclosed portions. The appellant appealed the ministry's decision, claiming that the exception to the personal privacy exemption in section 21(4)(d) (compassionate grounds) applied to the information in the records. The ministry subsequently withdrew its reliance on section 14(2)(a) to withhold portions of the records. In this order, the adjudicator finds that disclosure of the personal information in the records would result in an unjustified invasion of personal privacy under section 21(1). However, the adjudicator also finds that the exception in section 21(4)(d) applies to some of the information. The ministry's decision is upheld, in part, and some information is ordered to be disclosed to the appellant.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended, sections 2(1), 21(1), 21(3)(a), 21(3)(b), 21(2)(f) and 21(4)(d).

Orders and Investigation Reports Considered: MO-2237

OVERVIEW:

[1] The Ministry of Community Safety and Correctional Services (the ministry) received a request under the *Act* for records relating to a motor vehicle accident. The requester is the spouse and executor of an individual who was killed as a result of the

accident. In her request, the requester stated that she sought access to "... a copy of the occurrence report that was completed following the accident, as well as any witness statements and officer's notes that may be on file." The requester also indicated that she wanted the records for compassionate reasons.

[2] In its decision, the ministry stated:

You have confirmed that you wish to be provided with access to Ontario Provincial Police records regarding the death of your husband in accordance with the provisions of the Act that permit disclosure of such personal information to the spouse/close relatives of deceased individuals where disclosure is desirable in the circumstances for compassionate reasons. Your request has been considered on this basis.

Please be advised that the Ministry contacted two individuals who provided information to the Ontario Provincial Police in regard to this incident. One individual did not consent to the release of his information. One individual did not respond to the Ministry's correspondence.

Access to part of the responsive information is denied in accordance with sections 49(a), 14(1)(l), 14(2)(a), 49(b), 21(2)(f), 21(3)(a) and 21(3)(b) of the *Act*...

[3] The ministry also stated that some information was removed because it was found to be non-responsive to the request.

[4] The requester (now the appellant) appealed the ministry's decision.

[5] During the mediation stage of the appeal process, the appellant advised the mediator that she is concerned about the accuracy of some of the information recorded in the reports and police officers' notes. The mediator advised the appellant of her right to make a correction request to the ministry and that if she is dissatisfied with the outcome of her correction request, she can appeal the ministry's response to this office.

[6] In addition, the appellant had questions about why certain comments were made by some officers during the investigation of the accident. The mediator relayed these questions to the ministry, which invited the appellant to contact the lead investigator to ask questions about the investigation.

[7] Also during mediation, the appellant advised that she does not seek access to the police codes, information about other police investigations and the date and time that the reports were printed. Accordingly the portions of the record that had been severed pursuant to section 14(1)(l) (commission of an unlawful act or control of

crime), as well as the information deemed to be non-responsive to the appellant's request, are no longer at issue in this appeal.

[8] The appellant also clarified that she does not seek the names, addresses or other contact information about the witnesses who made statements to the police (the affected parties). She also advised that she does not seek information that might appear in the record relating to either of her daughters. Therefore, this information is not at issue in this appeal.

[9] However, the appellant advised that she does seek access to any other information that she may have a right to, including information relating to individuals whose information appears in the records because they were acting in their professional capacity. This information is, therefore, at issue in this appeal.

[10] The appellant emphasized that she believes she has received conflicting information from various police officers and individuals that she dealt with through the course of the investigation and that she is dedicated to finding the truth about what happened to her husband as a result of the accident. Specifically, she seeks answers to questions such as where his truck was located when it came to a stop after the accident and whether or not he crossed into the opposing lane prior to the accident. The appellant also wants to know what the witnesses said to the police about what they saw or heard. The appellant states that she needs this information to understand what happened during the accident and to help bring some closure regarding the circumstances surrounding her husband's death.

[11] The mediator contacted one of the two affected parties whose information appears in the records and he provided his consent to the disclosure of some of his information to the appellant, with the exception of his name, address, telephone number and other identifying numbers associated with this individual.

[12] The ministry subsequently issued a revised access decision disclosing additional information to the appellant and denying access to the remaining information in accordance with the exemption described in its initial decision letter.

[13] The parties were unable to resolve the appeal during the course of mediation and the file has been transferred to the adjudication stage for a written inquiry.

[14] The adjudicator originally assigned to conduct the inquiry invited the ministry and one affected party to make representations on the application of the discretionary exemption in section 14(2)(a) (law enforcement report) and the mandatory exemption in section 21(1) (personal privacy). In its representations, the ministry advised that it was no longer applying the exemption in section 14(2)(a), but maintained that section 21(1) applied to withhold the information at issue from disclosure. The affected party

submitted a brief statement indicating that he provided his information to the police in confidence and does not wish to have his information disclosed to the appellant.

[15] The appellant then made representations in response to the ministry's submissions.

[16] Following the completion of the inquiry, this appeal was transferred to me to complete the order. I note that there is an error in the description of records in the Mediator's Report and the Notices of Inquiry. These documents state that there are 36 pages of records at issue, but there are only 34 pages of records at issue. In the discussion that follows, I find that section 21(1) applies to the information at issue, but that the exception in section 21(4)(d) (disclosure is desirable for compassionate reasons) applies to some of that information. Accordingly, I will order the ministry to disclose additional portions of the records to the appellant.

RECORDS:

[17] The information at issue consists of the severed portions of the following:

- Occurrence Summaries, General Occurrence Reports, Supplementary Occurrence Reports – 7 pages
- Police Note Book Entries and Interview Report – 27 pages

ISSUES:

- A. Do the records contain "personal information" as defined in section 2(1) and, if so, to whom does it relate?
- B. Does the mandatory exemption at section 21(1) apply to the information at issue?

DISCUSSION:

A. Do the records contain "personal information" as defined in section 2(1) and, if so, to whom does it relate?

[18] The ministry relies on the mandatory exemption in section 21(1) to exempt the information at issue. Before I can determine whether section 21(1) of the *Act* applies to the records, it is necessary to determine whether the records contain "personal information" and, if so, to whom it relates.

[19] The term "personal information" is defined in section 2(1) of the *Act* as follows:

"personal information" means recorded information about an identifiable individual including,

- (a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual,
- (b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,
- (c) any identifying number, symbol or other particular assigned to the individual,
- (d) the address, telephone number, fingerprints or blood type of the individual,
- (e) the personal opinions or view of the individual except where they relate to another individual,
- (f) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence,
- (g) the views or opinions of another individual about the individual, and
- (h) the individual's name if 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;

[20] The list of examples of personal information under section 2(1) is not exhaustive. Therefore, information that does not fall under paragraphs (a) to (h) may still qualify as personal information.¹

¹ Order 11

[21] Sections 2(3) and (4) also relate to the definition of personal information. These sections state:

(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 other capacity.

(4) For greater certainty, subsection (3) applies even if an individual carries out business, professional or official responsibilities from their dwelling and the contact information for the individual relates to that dwelling.

[22] 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.²

[23] 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.³

[24] To qualify as personal information, it must be reasonable to expect that an individual may be identified if the information is disclosed.⁴

[25] The ministry submits that the information at issue includes the personal information of two affected parties, who provided the investigating OPP officers with witness information to assist the police with their investigation into the motor vehicle accident. The ministry submits that the affected parties' personal information consists of their names, dates of birth, addresses, telephone numbers and the statements they provided to investigating officers about the accident. In addition, the ministry notes that one of the affected parties was injured and there are records relating to his medical condition and the medical treatment he received after the accident.

[26] Since these affected parties were witnesses to the accident, the ministry submits that these individuals were acting in a personal capacity, and the information they provided to the OPP officers is their personal information as that term is defined in section 2(1) of the *Act*.

[27] The ministry submits that the affected parties will be identified if their personal information is disclosed, because the information being requested includes names,

² Orders P-257, P-427, P-1412, P-1612, R-980015, MO-1550-F and PO-2225

³ Orders P-1409, R-980015, PO-2225 and MO-2344

⁴ Order PO-1880, upheld

addresses, telephone numbers, and other personal information that would identify these individuals and link them to the accident.

[28] The appellant does not address whether the records at issue contain "personal information" within the meaning of section 2(1).

[29] Based on my review of the records, I find that they contain the personal information of the deceased individual (the appellant's husband) and other identifiable individuals, including the two affected parties.

[30] The records at issue were compiled and formed part of an investigation of the motor vehicle accident that resulted in the appellant's husband's death. The records contain information that clearly reveals the deceased individual's personal information within the meaning of section 2(1) of the *Act*, including information relating to his race, age and sex [paragraph (a)]; information relating to his medical, criminal and employment history [paragraph (b)]; address, telephone number [paragraph (c)]; the views or opinions of other individuals (i.e. the affected parties) about the deceased [paragraph (g)]; and the deceased's name where it appears with other personal information relating to him [paragraph (h)]. I find that the majority of the information at issue consists of information about the deceased individual and the circumstances surrounding his death. It qualifies, therefore as his personal information for the purposes of the *Act*.

[31] In addition to the deceased individual, I find that some of the information at issue qualifies as the personal information of the two affected parties, who were witnesses to the motor vehicle accident. On my review of the information at issue, I find that the personal information includes the affected parties' age and sex [paragraph (a)]; their medical histories or treatment [paragraph (b)]; their address and telephone number [paragraph (d)]; their personal opinions or views [paragraph(e)]; and their names, along with other personal information relating to them [paragraph (h)]. I note that during mediation, the appellant advised that she does not seek access to the names, addresses or other contact information of the affected parties. Accordingly, the names and contact information of the affected parties are not at issue in this appeal.

[32] Further, I note that there is information in the records that constitutes the personal information of the affected parties alone. For example, the records include information relating to one of the affected parties' medical treatment and condition after the accident and information relating to his employment. This type of information relates solely to the affected party. However, I find that there is some personal information belonging to the affected parties that is inextricably linked with that of the deceased's, such as the affected parties' witness statements where they describe the deceased and the circumstances of the accident.

[33] The records do not contain the appellant's personal information.

[34] In sum, I find that the information at issue includes the personal information of the appellant's deceased husband and the two affected parties.

B. Does the mandatory exemption in section 21(1) apply to the information at issue?

[35] Under section 21, where a record contains personal information of an individual other than the requester, the institution must refuse to disclose that information unless disclosure would not constitute an "unjustified invasion of personal privacy".

[36] Sections 21(1) to (4) provide guidance in determining whether the unjustified invasion of personal privacy threshold is met. The factors and presumptions in sections 21(2), (3) and (4) help in determining whether disclosure would or would not be an unjustified invasion of privacy under section 21(1)(f).

[37] 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 a presumed unjustified invasion of personal privacy under section 21(3) is established for information claimed to be exempt under section 21(1), it can only be overcome if section 21(4) or the "public interest override" at section 23 applies⁵.

[38] The ministry submits that section 21(1)(a) of the *Act* prevents it from disclosing the personal information of the affected parties because they have not consented to the disclosure of the information at issue to the appellant.

[39] In addition, the ministry submits that the presumption in section 21(3)(b) applies as the personal information in the records was compiled and are clearly identifiable as part of an investigation into a possible violation of law, namely the *Highway Traffic Act*. Section 21(3)(b) reads as follows:

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

[40] The ministry submits that the records contain personal information collected by investigating officers of the OPP, who were determining the cause of the motor vehicle

⁵ *John Doe v. Ontario (Information and Privacy Commissioner)* (1993), 13 O.R. (3d) 767.

accident, and for the purpose of ruling out whether an offence was committed under the *Criminal Code* or any charges ought to be laid under provincial highway safety legislation.

[41] Based on my review of the personal information at issue, I find that it was compiled and is identifiable as part of the OPP's investigation into a possible violation of law, namely the *Highway Traffic Act*. Furthermore, I find that despite the fact that no criminal proceedings were commenced against any individuals, the presumption in section 21(3)(b) still applies⁶.

[42] I note that the ministry also raised the possible application of the presumption in section 21(3)(a) to some of the personal information at issue. Section 21(3)(a) reads as follows:

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

relates to a medical, psychiatric, or psychological history,
diagnosis, condition, treatment or evaluation.

[43] The ministry submits that some of the information at issue "relates to" the medical condition or treatment received by one of the affected parties arising from his involvement in the motor vehicle accident. The ministry submits that a plain reading of section 21(3)(a) points to a conclusion that this information fits within the mandatory presumption in section 21(3)(a).

[44] I agree. Upon review of the records at issue, I find that some of the information withheld from disclosure concerns the medical condition and treatment of one of the affected parties as a result of the motor vehicle accident. As this type of information is clearly captured within section 21(3)(a), I find that the disclosure of the portions relating to the affected party's medical treatment and condition is presumed to be an unjustified invasion of his personal privacy.

[45] Accordingly, I find that disclosure of the information at issue is presumed to be an unjustified invasion of the personal privacy of the affected parties and the appellant's deceased husband pursuant to section 21(3)(b) and that the disclosure of portions of the information at issue relating to one of the affected parties' medical condition and treatment is presumed to be an unjustified invasion of his personal privacy pursuant to section 21(3)(a).

⁶ Order PO-1849.

[46] In addition to the presumptions in section 21(3), the ministry claims that the factor weighing against disclosure at section 21(2)(f) applies to prevent the disclosure of the information at issue. Section 21(2)(f) reads as follows:

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 the personal information is highly sensitive.

[47] The ministry submits that the fact that the affected parties declined to consent to the release of their personal information coupled with the context in which their personal information was collected (a law enforcement investigation into a tragic accident resulting in a fatality) means that the disclosure of the information at issue without consent could be expected to cause significant distress, thereby triggering the application of the factor in section 21(2)(f).

[48] This office has established that, for information to be considered highly sensitive under section 21(2)(f), there must be a reasonable expectation of significant personal distress if the information is disclosed⁷.

[49] In my view, some of the information at issue in the records can be considered highly sensitive. Particularly, I find that the information that describes in detail one of the affected parties' medical condition and treatment following the accident, as well as information about his employment to be highly sensitive. In his representations, the affected party indicated that he does not consent to the disclosure of the information at issue and notes that he is very concerned about the disclosure of his contact and employment information to the appellant. While the affected party's contact information is not at issue in this appeal, I note his concern with regard to the disclosure of the information at issue and am satisfied that there is a reasonable expectation that the affected party would experience significant personal distress⁸ if information relating to his medical condition and employment is disclosed to the appellant.

[50] However, I am not satisfied that the remaining information at issue is highly sensitive. Although it describes the particulars of the motor vehicle accident that resulted in the appellant's husband's death, I find that the ministry and other parties have not provided me with sufficient evidence to demonstrate that there is a reasonable expectation that its disclosure would result in significant personal distress. For example, there are two drawn diagrams of the scene of the accident in the officer's notes. It is unclear to me how the disclosure of two diagrams of the accident site could reasonably cause the individuals involved significant distress. In addition, the information at issue includes general notes made by police officers to describe the

⁷ Orders PO-2518, PO-2617, MO-2262 and MO-2344.

⁸ Order PO-3093.

scene and their actions during the investigation. The ministry claims that all of the information at issue is “highly sensitive”, but has failed to demonstrate that there is a reasonable expectation that the disclosure of general officers’ notes would result in significant personal distress to the affected parties.

[51] Accordingly, I find that the factor in section 21(2)(f) applies to only the information that relates to one of the affected parties’ medical condition and treatment and employment.

[52] With regard to the other factors listed in section 21(2), I find that none apply.

[53] Taking into account the application of the presumptions in sections 21(3)(a) and (b), and the factor favouring privacy protection in section 21(2)(f), I find that the disclosure of the withheld portions of the records would constitute an unjustified invasion of personal privacy under section 21(1) of the *Act*. I will now consider whether the exception to this exemption provided by section 21(4)(d) applies to entitle the appellant to disclosure of the information at issue, or portions of them.

Section 21(4)(d)

[54] Section 21(4)(d) of the *Act* permits the disclosure of personal information about a deceased individual to the spouse or close relative of the individual where it is desirable for compassionate reasons, and states:

Despite subsection (3), a disclosure does not constitute an unjustified invasion of personal privacy if it

Discloses personal information about a deceased individual to the spouse or a close relative of the deceased individual, and the head is satisfied that, in the circumstances, the disclosure is desirable for compassionate reasons.

[55] A finding that the exception in section 21(4)(d) applies to some or all of the personal information means that disclosure of that information would not be an unjustified invasion of personal privacy. Accordingly, where this provision applies, the information is not exempt under section 21(1)⁹.

⁹ Orders MO-2237 and MO-2245.

[56] The terms "close relative" and "spouse" are defined in section 2(1) of the *Act* as follows:

"close relative" means a parent, child, grandparent, grandchild, brother, sister, uncle, aunt, nephew or niece, whether related by blood or adoption; ("proche parent"); and

"spouse" means,

- (a) a spouse as defined in section of the *Family Law Act*, or
- (b) either of two persons who live together in a conjugal relationship outside marriage. ("conjoint")

[57] The application of section 21(4)(d) requires a consideration of the following questions, all of which must be answered in the affirmative in order for the section to apply:

1. Do the records contain the personal information of a deceased individual?
2. Is the requester a spouse or "close relative" of the deceased individual?
3. Is the disclosure of the personal information of the deceased individual desirable for compassionate reasons, in the circumstances of the request?¹⁰

[58] Personal information about a deceased individual can include information that also qualifies as that of another individual. Where this is the case, the "circumstances" to be considered would include the fact that the personal information of the deceased is also the personal information of another individual or individuals. The factors and circumstances referred to in section 21(2) may provide assistance in this regard, but the overall circumstances must be considered and weighed in any application of section 21(4)(d)¹¹.

[59] After the death of an individual, it is that person's spouse or close relatives who are best able to act in their "best interests" with regard to whether or not particular kinds of personal information would assist them in the grieving process. The task of the institution is to determine whether, "in the circumstances, disclosure is desirable for compassionate reasons."¹²

¹⁰ Orders MO-2237 and MO-2245.

¹¹ Order MO-2237.

¹² *Ibid.*

Analysis and Findings

Step 1 – Personal Information of the Deceased

[60] I have found above that the records contain the personal information of the appellant's deceased husband and two affected parties. I note that some of the personal information of these affected parties is inextricably intertwined with that of the appellant's husband, such as the witness statements about the accident.

[61] However, as previously discussed, some of the records contain only the personal information of the affected parties, such as their names, addresses, dates of birth and information relating to their medical condition and employment. I find that the information that relates solely to the affected parties and not the deceased individual does not satisfy the first requirement for the application of section 21(4)(d) and I will not consider it further for the purposes of this analysis.

[62] Therefore, I am satisfied that the first requirement for the application of section 21(4)(d) is satisfied only with respect to the records that contain the appellant's deceased husband's personal information.

Step 2 – Spouse or "Close Relative"

[63] I am satisfied that the appellant is the spouse of the deceased individual whose personal information is contained in the records at issue and that the second requirement for the application of section 21(4)(d) is satisfied.

Step 3 – Desirable for Compassionate Reasons

[64] Because section 21(4)(d) can override the presumed unjustified invasion of privacy as set out in section 21(1), it raises an issue about the interpretation of the words "desirable for compassionate reasons".

[65] The ministry submits that it considered whether the compassionate disclosure provisions in section 21(4)(d) apply to the information at issue. With regard to this part of the test, the ministry states that it must be satisfied that, in the circumstances, the disclosure is desirable for compassionate reasons. The ministry submits that it considered the following factors in determining that no further disclosure of records would be desirable for compassionate reasons:

- the affected parties have not consented to the disclosure of their personal information;

- the personal information in question is highly sensitive, due to the circumstances in which it was collected (a police investigation into a fatality) and any disclosure of this sensitive information is essentially a disclosure to the world;
- members of the public would be less forthright in cooperating with the police and in assisting with investigations should they become aware that their personal information may be disclosed. The ministry submits that this outcome should be avoided, in the interests of public safety and security;
- the appellant has already been provided with most of the responsive records that provide her with detailed factual information of the circumstances of the deceased's death; and
- the privacy rights of the affected parties have been protected.

[66] In his submissions, the affected party states that he does not consent to the disclosure of the information at issue. He is particularly concerned about the disclosure of his contact and work information to the appellant.

[67] In response, the appellant submits that she seeks the personal information at issue, particularly the statement of the affected party, for personal and compassionate reasons. The appellant states that the death of her husband was extremely difficult for her and she feels that there are many unanswered questions regarding the accident. The appellant states that the disclosure of the witness statement may help her find some closure and peace and resolve some of the questions that have arisen from the conflicting information she has received. The appellant confirms that she does not want any personal information of the affected parties, but seeks clarification as to the cause of the accident. The appellant submits that as a grieving widow, she needs to know what the other driver in the accident saw.

[68] In Order MO-2237, Assistant Commissioner Brian Beamish considered the definition of the word "compassionate" and the intent of the Legislature as follows:

The *Concise Oxford Dictionary, Eighth Edition*, defines "compassionate" as follows: "*adj.* sympathetic, pitying." Compassion is defined in the *Concise Oxford Dictionary, Eighth Edition*, as follows: "*n.* pity inclining one to help or be merciful."

I accept these definitions as evidence of the plain and ordinary meaning of the word "compassionate" and adopt it for the purposes of this appeal.

As discussed above, I have concluded that by using the words “in the circumstances” the Legislature intended that a broad and all encompassing approach be taken to the consideration by this office of whether or not disclosure is “desirable for compassionate reasons.” In my view, by enacting this amendment to the *Act*, the Legislature intended to address an identified gap in the access to information legislation and increase the amount of information being provided to bereaved family members. It is recognition that, for surviving family members, greater knowledge of the circumstances of their loved one’s death is by its very nature compassionate.

[69] I agree with and adopt this approach for the purposes of this appeal.

[70] Considering of all the circumstances surrounding this request and appeal, I am satisfied that the disclosure to the appellant of some of the personal information in these records is “desirable for compassionate reasons”. I am mindful of the privacy interests of the affected parties and note that I have already found that section 21(4)(d) does not apply to the personal information that belongs only to the affected parties. However, with regard to the portions of the officers’ notes and the affected parties’ statements that describe the circumstances of the accident, I find that the privacy interests of the affected parties must yield to the compassionate reasons for disclosure. As the grieving widow of the deceased seeking answers and closure, I find that she is entitled to have access to some additional portions of the records for compassionate reasons. In particular, I find that the following portions of the records will provide the appellant with further information about her husband’s death and qualify under the exception in section 21(4)(d) of the *Act*:

- Occurrence Summary – portions of page 2
- General Occurrence Report – portions of pages 3 and 6
- Incident Notification Report – portions of pages 12 and 13
- Officers’ Notes – portions of pages 25, 29, 38, 39, 40, 57 and 62
- OPP Interview Report – portions of pages 85, 86, 87 and 88

[71] Although I concur with the ministry’s submission that some of the information in the records is highly sensitive, I have already found that the only personal information that is highly sensitive is the information detailing one of the affected parties’ medical condition and treatment and employment. I find that the ministry has not demonstrated that the information I have identified above should not be disclosed to the appellant for compassionate reasons. The information I identified above will provide the appellant more information regarding her husband’s tragic death, while also protecting the highly sensitive personal information of other individuals. Accordingly, I find that the information in the record identified above qualifies for the exception in section 21(4)(d) and the disclosure of this information does not constitute an unjustified invasion of personal privacy under section 21(1).

[72] I uphold the ministry's decision to withhold the remaining personal information, as disclosure of this information would be an unjustified invasion of another individual's personal privacy.

ORDER:

1. I order the ministry to disclose the information in the records, as described in my findings above by **October 2, 2013** but not before **September 26, 2013**. To ensure clarity with respect to the information to be withheld, I have enclosed a copy of the records that are to be disclosed to the appellant highlighting in green the additional portions that are to be disclosed.
2. I uphold the ministry's decision to withhold the remaining information.
3. In order to verify compliance with this order, I reserve the right to require the ministry to provide me with a copy of the records that are disclosed to the appellant pursuant to order provision 1.

Original Signed By: _____

Justine Wai
Adjudicator

_____ August 27, 2013