



Information and Privacy
Commissioner/Ontario

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

ORDER 144

Appeal 890334

Ministry of Health



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January 26, 1990

VIA PRIORITY POST

The Honourable Elinor Caplan
Minister of Health
10th Floor, Hepburn Block
80 Grosvenor Street
Toronto, Ontario
M7A 2C4

Dear Ms Caplan:

Re: Order 144
Appeal Number 890334
[Appellant]

This letter constitutes my Order in the appeal by [a named individual] (the "appellant") of the decision by the Ministry of Health (the "institution"), regarding the appellant's request for records under the Freedom of Information and Protection of Privacy Act, 1987 (the "Act").

On August 30, 1989, the appellant wrote to the institution requesting access to the following information:

...all inspection reports for the named Services set out below from 1987 to the present time including all public interest evaluation reports, all internal correspondence within the Ambulance Services Branch _ Inspection and Investigation Service pertaining to the named Services set out below...

Tilsonburg District Memorial Hospital...
Stratford Ambulance Service...
Stratford General Hospital...

[IPC Order 144/January 26, 1990]

Brant County Ambulance Service Limited...
Thames Valley Ambulance Limited...

We are particularly interested in any inspection reports filed by a Mr. J.B. Pereira who is an Emergency Medical Care Assistant with the Inspection and

Investigation Service of the Emergency Health Service at 7 Overlea Boulevard, Suite 700, Toronto, Ontario M5H 1H8, (416) 963_1306. Please provide any investigation reports filed by Mr. J.B. Pereira from 1987 to the present time.

By letter dated October 6, 1989, the Freedom of Information and Privacy Co_ordinator (the "Co_ordinator") for the institution advised the appellant that the time limit for responding to the above noted access request was being extended, by twenty days, to October 26, 1989.

By letter dated October 13, 1989, the institution advised the appellant that:

...access has been denied under the authority of Section 67 of the Freedom of Information and Protection of Privacy Act, 1987 and Section 18(3) of the Ambulance Act.

By letter dated November 3, 1989, the appellant appealed the head's decision, and I gave notice of the appeal to the appellant and the institution.

On January 1, 1990, the Freedom of Information and Protection of Privacy Amendment Act, 1989 (the "Act") came into force. The amending "Act" changes the law with respect to the application of statutory confidentiality provisions. As a general rule, the Freedom of Information and Protection of Privacy Act, 1987, now overrides most confidentiality provisions. This is true unless a confidentiality provision is specifically noted in the amending "Act" or another piece of legislation specifically provides that a confidentiality provision overrides the Freedom of Information and Protection of Privacy Act, 1987.

Unfortunately, a number of appeals in which institutions have relied on a confidentiality provision still remain to be decided by me, including the above noted appeal. While it would be possible for me to simply decide whether the provision at issue in this appeal is a confidentiality provision and whether it operated in a way that prevailed over the Act at the time the head's decision was made, I have decided not to go through such an exercise. Instead, I order that the head review the records

at issue in this appeal for which the confidentiality provision was claimed, and, in respect of those records, make a decision as to the application of the Freedom of Information and Protection of Privacy Act, 1987, as amended. I ask that this decision be forwarded to the appellant by March 1, 1990 and that a copy of the decision letter be forwarded to my office within

five (5) days of the date on which notice of the decision was given to the appellant. When this decision has been made, it may be appealed by [the appellant], within 30 days, pursuant to section 50 of the Act.

Yours truly,

Sidney B. Linden
Commissioner

cc: Mr. Andrew Parr, Co_ordinator
Appellant