



**Information and Privacy
Commissioner/Ontario**

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

ORDER 152

Appeal 890128

Ministry of the Solicitor General



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February 27, 1990

VIA PRIORITY POST

The Honourable Steven Offer
Solicitor General for the Province of Ontario
11th Floor, 25 Grosvenor Street
Toronto, Ontario
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Dear Mr. Offer:

Re: Interim Order 152
Appeal Number 890128
[Name of Appellant]

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

On March 25, 1989, the appellant wrote to the institution requesting the following information:

...copies of the documents of the investigation of my complain (sic) by P.K. (Paul) Brammar. I received a letter from J.R. Edgar, S/Sgt. Deputy Registrar Private Investigators and Security Guards dated March 13, 1989. Please name in your reply each document which you are sending to me.

Attached to this my Request for access to personal information are the questions rizing (sic) from the letter dated March 13, 1989 which I want to be answered.

I want to have the copy of each document which is on file #4272-89-048."

[IPC Order 152/February 27, 1990]

On April 5, 1989, the Freedom of Information and Privacy Co-ordinator for the institution (the "Co-ordinator") wrote to the appellant advising that pursuant to section 18 of the Private Investigators and Security Guards Act, the Commissioner of the Ontario Provincial Police consented to grant the appellant partial access to the records requested.

On May 2, 1989, the requester wrote to me appealing the decision of the institution. I gave notice of the appeal to the institution on May 9, 1989.

As soon as this appeal was received by my office, an Appeals Officer was assigned to investigate the circumstances of the appeal and to attempt to mediate a settlement in this matter. The Appeals Officer obtained and reviewed the record, and undertook settlement discussions.

When a settlement of this appeal could not be reached, an Appeals Officer's Report was prepared and sent to both the appellant and your institution, together with a Notice of Inquiry. At that time you and the appellant were asked to make representations to me on all issues arising in the context of the appeal. Representations were received from your institution and the appellant.

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.

A number of appeals in which institutions have relied on a confidentiality provision still remain to be decided by me, of which this appeal is one. While I note that in his letter of decision, the Co-ordinator indicated that the Commissioner of the Ontario Provincial Police had considered subsections 14(1)(d), 14(2)(a), and 21(1)(f) of the Act in making his decision as to whether to consent to the disclosure of the information, I have no representations from either party directly related to those sections.

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, my interim order in this appeal is that you 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 20, 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: Ms Isabel MacTavish, FOI Co-ordinator
[Name of Appellant]