

**Office of the Information and Privacy Commissioner
Province of British Columbia
Order No. 82-1996
February 9, 1996**

INQUIRY RE: A decision by the Ministry of Social Services to refuse to disclose personal information of a third party

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1. Description of the review

As Information and Privacy Commissioner, I conducted a written inquiry at the Office of the Information and Privacy Commissioner on December 11, 1995 under section 56 of the *Freedom of Information and Protection of Privacy Act* (the Act). This inquiry arose out of a request for review of a decision by the Ministry of Social Services (the public body) to withhold personal information of a third party, specifically his address, requested by the third party's father (the applicant).

2. Issue

The issue to be resolved in this case is whether the record in dispute should be withheld under section 22(1) of the Act. This section reads in appropriate part as follows:

Disclosure harmful to personal privacy

22(1) The head of a public body must refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of a third party's personal privacy.

(2) In determining under subsection (1) or (3) whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the head of a public body must consider all the relevant circumstances, including whether

...

(f) the personal information has been supplied in confidence, ...

- (3) A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy if

...

- (c) the personal information relates to eligibility for income assistance or social service benefits or to the determination of benefit levels,

...

- (f) the personal information describes the third party's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness,

....

3. Burden of Proof

Under section 57(2), if the record or part to which the applicant is refused access under section 22 contains personal information about a third party, it is up to the applicant to prove that disclosure of the personal information would not be an unreasonable invasion of the third party's personal privacy. In this case, the applicant must prove that disclosure of the personal information he has requested would not be an unreasonable invasion of his son's privacy.

4. The applicant's case

The applicant has informed me of a variety of matters that are not relevant to deciding the matter before me in this inquiry, and I have chosen not to review them here. It appears that he has not had contact with one of his adult sons for a period of time, is naturally concerned about his well-being, and has made various attempts to locate him, including reporting him to the police as missing. The father's own evidence indicates that he had various forms of contact with the son prior to 1994, including providing him with some financial support. In some cases the son initiated contact with his father.

5. The Ministry of Social Services' case

The Ministry points out that, under the *Guaranteed Available Income for Need (GAIN) Act*, an applicant for income assistance has to supply certain information, which it is required to keep confidential, except, for example, for disclosure to next of kin in an emergency. (Submission of the Ministry, pp. 5-6) Section 22 of the Act further protects "from disclosure personal information which relates to an individual's eligibility for income assistance or social service benefits." (Submission of the Ministry, p. 7) The Ministry further relies upon sections 22(2)(f) and 22(3)(c) and (f), as discussed below.

6. Discussion

The essence of this case appears to be that a father, the applicant, is trying to locate his son, who gives the appearance of not wanting to be contacted. The issue is whether the Ministry should help the father locate the son by disclosing information possibly supplied by the son to

the Ministry for another purpose. The applicant has provided me with a miscellany of material that gives his side of the story for wanting to establish contact. However, a request for records does not allow me to establish or even weigh the merits of the father's concerns, which exceed my statutory jurisdiction to rule on the merits of the Ministry's specific decision to refuse access in this case.

I have treated the applicant's material sympathetically in the sense of seeking to understand what he wants from the Ministry. I have also accepted that he is making an implied argument that giving him access to limited personal information about his son would not be an unreasonable invasion of the son's privacy. I should add that there is no concrete evidence before me in this case that the Ministry, in fact, has any information on the son.

The applicant is essentially seeking to use the records of the Ministry as a locational device for a member of his family. The Ministry, which presumably knows more about this specific situation than it has shared with me, has chosen not to make any disclosures about the son to the father. I assume that the Ministry took into account compassionate grounds when reaching this decision.

The Ministry has offered to hold a letter from the applicant to the son in the event that the son has contact with the public body in the future. A probation officer has offered to do the same. I regard this as an intelligent response. The Ministry further suggests, on the basis of material submitted to this inquiry by the applicant, that the son may not want to be contacted. (Submission of the Ministry, p. 10)

The application of section 22

I accept the argument of the Ministry that GAIN information is submitted in confidence, and that therefore section 22(2)(f) weighs against disclosure of such personal information to the applicant in this case.

Under section 22(3)(c), I accept the argument of the Ministry that there is a presumption against disclosure of the information requested by the applicant in this case, because "the personal information relates to eligibility for income assistance or social service benefits or to the determination of benefit levels."

7. Order

Under section 22 of the Act, I find that the Ministry of Social Services is required to refuse access to the records requested by the applicant. Under section 58(2)(c), I require the Ministry of Social Services to refuse access to the records in dispute to the applicant.