

**Office of the Information and Privacy Commissioner
Province of British Columbia
Order No. 136
December 16, 1996**

**INQUIRY RE: The Ministry of Social Service's application of section 29 of the Act
(correction of personal information)**

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1. Introduction

As Information and Privacy Commissioner, I conducted an inquiry on September 19, 1996 under section 56 of the *Freedom of Information and Protection of Privacy Act* (the Act). This inquiry arose out of a request for review by an applicant of the response of the Ministry of Social Services, as it then was, to a request made under section 29 of the Act for correction of the applicant's personal information.

Based on the information provided to it, the Ministry of Social Services made a decision to annotate the applicant's record. It placed all of the applicant's correspondence with respect to his correction request on his personal file located in the District office from which he obtains services. In addition, a copy of the applicant's correspondence was attached to the original record located in the Minister's office. A note was also placed on the electronic GAIN History Screen to indicate that an annotation has been made to the applicant's file.

2. Issues under review and the burden of proof

The applicant does not agree with the decision made by the Ministry of Social Services to annotate the record in question. He is of the opinion that the Ministry of Social Services must correct, not annotate, the disputed information. The overall issue under review is whether the response by the Ministry of Social Services to the applicant's request for corrections satisfies the requirements of section 29 of the Act.

Section 29 reads:

Right to request correction of personal information

- 29(1) An applicant who believes there is an error or omission in his or her personal information may request the head of the public body that has the information in its custody or under its control to correct the information.
- (2) If no correction is made in response to a request under subsection (1), the head of the public body must annotate the information with the correction that was requested but not made.
- (3) On correcting or annotating personal information under this section, the head of the public body must notify any other public body or any third party to whom that information has been disclosed during the one year period before the correction was requested.
- (4) On being notified under subsection (3) of a correction or annotation of personal information, a public body must make the correction or annotation on any record of that information in its custody or under its control.

Section 57 of the Act establishes the burden of proof for an inquiry into a decision to refuse access. However, the Act is silent as to the burden of proof with respect to a request for review about the correction of personal information. Because a public body is in a better position to prove such matters, I have determined that the burden of proof with respect to this request for correction of personal information rests with the Ministry of Social Services.

3. The applicant's case

The applicant did not file a submission for this inquiry, but it is evident from his request for review that he is unhappy that a portion of his record with the Ministry of Social Services has been annotated rather than corrected.

4. The Ministry of Social Services' case

According to the Ministry, the applicant disagrees with a one and a half line statement that appears in his personal record that is in the custody of the Minister's office and was disclosed to the applicant: "The Public Body investigated the concerns that the Applicant raised with respect to this statement, and concluded that the statement accorded with the Public Body's perception of events, and reflected the true state of affairs." (Submission of the Ministry, paragraphs 1.04, 1.05) However, in accordance with section 29(2) of the Act, the Ministry attached the applicant's complaint letter to the record in the Minister's office.

The Ministry submits that it has fully complied with its obligations under section 29 of the Act. (Submission of the Ministry, paragraphs 4.01-4.06) It relies on Order No. 110-1996, June 5, 1996, p. 8.

5. Discussion

I have reviewed the record in dispute in this case. I am of the view that the portion the applicant wishes to correct consists primarily of opinion. My decisions in Order No. 124-1996, September 12, 1996, pp. 2-5, and Order No. 20-1994, August 2, 1994, p. 11 are fully determinative of the matter at issue in this inquiry.

5. Order

I find that the Ministry of Social Services acted in accordance with the requirements of section 29 of the Act with respect to the record in dispute. Under section 58(3)(d), I confirm the Ministry of Social Services' decision not to correct personal information as requested by the applicant.

David H. Flaherty
Commissioner

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