

ISSN 1198-6182

**Office of the Information and Privacy Commissioner  
Province of British Columbia  
Order No. 161-1997  
May 1, 1997**

**INQUIRY RE: The Ministry of Attorney General's decision to sever information from records related to an employee's travel expenses**

**Fourth Floor  
1675 Douglas Street  
Victoria, B.C. V8V 1X4  
Telephone: 250-387-5629  
Facsimile: 250-387-1696  
Web Site: <http://www.oipcbc.org>**

**1. Description of the review**

As Information and Privacy Commissioner, I conducted a written inquiry at the Office of the Information and Privacy Commissioner (the Office) on March 17, 1997 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 concerning the Ministry of Attorney General's decision to sever information from records related to travel expenses of a barrister employed by the Legal Services Branch of the Ministry.

**2. Documentation of the inquiry process**

The applicant made a request on October 9, 1996 for "copies of all expenses submitted for reimbursement by [the employee of the public body] in 1996 to date, activity log associated with each trip or expense, receipts for all expenses submitted, and the activity log, receipts and expenses submitted for reimbursement by [the employee of the public body] for entire year 1995." On December 6, 1996 the Ministry informed the applicant that it was denying access to portions of the records under sections 14, 19, and 22 of the Act. On December 18, 1996 the applicant requested a review of the Ministry's decision to provide him with severed copies of the employee's travel vouchers and to withhold entirely the attachments to each travel voucher showing the specifics of each trip.

During mediation, the Ministry agreed to withdraw its application of section 14 of the Act to the records requested by the applicant. In addition, the attachments to the travel vouchers were released to the applicant in severed form.

### 3. Issue under review at the inquiry

The issue in this review is whether the Ministry of Attorney General has correctly applied sections 19 and 22 of the Act to the information in dispute.

#### *Disclosure harmful to individual or public safety*

- 19(1) The head of a public body may refuse to disclose to an applicant information, including personal information about the applicant, if the disclosure could reasonably be expected to
- (a) threaten anyone else's safety or mental or physical health, or
  - (b) interfere with public safety.

#### *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
- (a) the disclosure is desirable for the purpose of subjecting the activities of the government of British Columbia or a public body to public scrutiny,
  - ...
  - (c) the personal information is relevant to a fair determination of the applicant's rights,
  - ...
  - (e) the third party will be exposed unfairly to financial or other harm,
  - (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
- ...
  - (d) the personal information relates to employment, occupational or educational history,
  - ....

Section 57 of the Act establishes the burden of proof on the parties in this inquiry. Under section 57(1), where access to the information in the record has been refused under section 19, it is up to the public body, in this case the Ministry, to prove that the applicant has no right of access to the record or part of the record. Under section 57(2), if the record or part that the applicant is refused access to under section 22 contains personal information about a third party, it is up to the applicant to prove that disclosure of the information would not be an unreasonable invasion of the third party's personal privacy.

#### **4. The records in dispute**

The records in dispute are the employee's travel vouchers for 1995/96 (up to the date of the request). The employee number and supplier code were withheld from these records. The attachments to the travel vouchers include office memoranda, travel receipts, travel authorization forms, and petty cash reconciliation forms, from which any information relating to the sites at which the employee stayed during her travel was withheld.

In addition, information withheld by the Ministry under sections 19(1) and 22(1) of the Act includes the following: the third party's personal credit card type, number, and expiry date; driver's license number and details; home addresses and telephone number; employee (payee supplier) number; information that would identify the name and location of the hotels where the third party stayed; phone numbers called from the hotels; and details on goods or services purchased by the third party which were not claimed by her on the travel voucher. (Submission of the Ministry, paragraph 4.01)

#### **5. The applicant's case**

The applicant did not make an initial submission in this matter; on the basis of section 56(4)(b) of the Act and the notice given him in the Notice of Inquiry, I subsequently denied him the right to submit any material in reply to the representations of the other parties.

I have reviewed the applicant's original application for the records and his reasons for requesting a review. In the latter he claimed that the Ministry of Attorney General had billed him for expenses incurred by a particular lawyer; in his view, the facts contradict her travel expenses; thus her travel expenses "require close scrutiny." The Ministry subsequently informed him that under the *Rules of Court*, charges to individual litigants are established by the Court and are not necessarily based on actual costs. (Submission of the Ministry, paragraph 1.06)

#### **6. The Ministry of Attorney General's case**

The Ministry's final position in this matter is a continued refusal to provide access "to those parts of the records which contained the Third Party's personal information or which could reasonably be expected to threaten the safety of the Third Party."

The Ministry states that the applicant in this case is a miner with a history of grievances associated with his two mineral claims and overlapping placer claims held by other parties. After an investigation and inquiry pursuant to the *Mineral Tenure Act*, the Chief Gold Commissioner ruled on November 25, 1994 in favour of the other parties. The applicant's petition for a judicial review of that decision was dismissed by the Supreme Court of British Columbia on May 1, 1996, with costs against him. The third party represented the Chief Gold Commissioner in that action and subsequently dealt with the applicant in another Supreme Court action in which his application to add various Crown employees and Ministries as named defendants was dismissed (on September 3, 1996). The records at issue in this inquiry include the third party's travel expenses for both matters.

I have presented below the Ministry's detailed arguments on the application of specific sections of the Act.

## **7. The Ministry of Women's Equality's case as an intervenor**

This Ministry addressed the application of section 19 of the Act in this inquiry and the need to use a gender inclusive analysis when applying this exception, especially in the context of potential nuisance behaviour and harassing behaviour. The Ministry reviewed for my benefit the definition of criminal harassment (commonly termed stalking) as defined in section 264 of the *Criminal Code*. In particular, "harassment may not include an explicit threat but may have a cumulative negative effect on the victim."

The Ministry has taken proactive steps to protect women in the workplace, in travelling to and from work, and while travelling to other places for work-related purposes: "One of these recommendations is that information about the business trip and travel plans be kept confidential."

The Ministry urged me to withhold the disputed information about the employee under section 19 of the Act.

## **8. Discussion**

The Ministry submits that all of the actual information in dispute in this inquiry is outside the scope of the applicant's request. (Submission of the Ministry, paragraph 5.01) I do not accept this position.

The Ministry has applied exceptions under the Act for refusing to disclose expense account information in the circumstances of the present case. Since this is a novel issue under the developing jurisprudence of access to information and privacy protection in this province, I wish to address the larger issues raised for the purposes of offering clarification to public bodies. The Ministry has also assisted me by setting out its argument on each exception in considerable detail.

***Section 19: Disclosure harmful to individual or public safety***

The Ministry's submission is that the information it has refused to disclose to the applicant could reasonably be expected to threaten the safety of the third party. (Submission of the Ministry, paragraph 5.03) The severed information includes the name and location of the third party's hotels, her home address and telephone number, and phone numbers she called from the hotels.

The applicant previously informed the applicant that he intended to file a complaint against her with the Law Society of British Columbia. The Ministry states that:

It is quite clear that the Applicant has decided to single out and target the Third Party as a result of his dealing with the Third Party on the two litigation files and based on the judgments rendered in these cases. The Applicant has a history of targeting government employees with whom he has had a dispute and requesting information on their travel expenses. (Submission of the Ministry, paragraph 5.08)

The Ministry has also submitted some information that allegedly displays threatening behaviour on the part of the applicant. While I find some of these expressions unpleasant and indeed distasteful, I do not find them truly threatening in what I take to be the intended standard of section 19. (Submission of the Ministry, paragraphs 5.03-5.09)

The third party states that she has been threatened in the past, verbally and physically, by individuals with whom she has dealt on a particular file. (Submission of the Ministry, paragraph 5.10 and Affidavit of the Third Party). More importantly, she has also been upset by some of the material sent to her clients in connection with litigation involving the applicant. (Affidavit of the Third Party, Exhibit A) I conclude in this regard that the Ministry is thus fully justified in withholding her home address, telephone number, and telephone numbers called from hotels on the basis of section 19(1)(a). (Submission of the Ministry, paragraphs 5.10-5.12)

The third party further states that she has established a pattern of staying in the same hotels because she has found them to be the safest. (Submission of the Ministry, paragraphs 5.13, 5.14) I conclude that the Ministry is fully justified in withholding the name and location of the third party's hotels on the basis of section 19(1)(a) concerns for her safety.

***Section 22: Disclosure harmful to personal privacy***

Since the applicant failed to make a submission in this matter, he has not met his burden of proof for access to the personal information in dispute.

Nevertheless, I find that this personal information can be legitimately withheld. I agree with the Ministry that the information can be withheld under sections 22(1) and 22(2)(e) in the circumstances of the present inquiry. I also accept the argument of the Ministry, under section 22(2)(f), that a “person submitting a travel voucher to his or her employer has the reasonable expectation that the personal information which must be submitted as part of the travel voucher ... will be held in confidence and will only be used for the purposes for which it was submitted.” (Submission of the Ministry, paragraph 5.25)

I further agree with the Ministry that the third party’s unique, lifetime employee number is part of her employment history, so that disclosure would be an unreasonable invasion of her personal privacy under section 22(3)(d). As the Ministry states:

An employee number is the key that unlocks the door to highly sensitive information about a person’s employment history, including a person’s work record, employee appraisals, and other personal information such as the employee’s age, dependents, and other unique identifiers. This number must be kept confidential and used only for the purposes for which it has been assigned to the individual employee.

I applaud this exemplary statement of the principle of finality, which I intend to enforce with respect to employee numbers. (Submission of the Ministry, paragraphs 5.27-5.30)

The Ministry also argued that disclosure of the third party’s credit card number and associated records of goods or services purchased but not claimed on travel vouchers would be an unreasonable invasion of personal privacy under section 22(3)(f).

In general, I confirm that the third party’s rights to privacy and safety significantly outweigh the applicant’s right of access to the information he has requested. One of the goals of the Act is to minimize intrusiveness in the lives of individuals in this province, including employees of public bodies. (See Order No. 100-1996, April 24, 1996, p.4) (Submission of the Ministry, paragraph 5.33)

### ***Disclosure of expense account records***

Although expense accounts of employees of public bodies are records under the Act, this Order stands for the proposition that the following personal information should not be routinely disclosed on the basis of section 22 of the Act:

1. any personal expenditures on goods or services for which the employee is not seeking reimbursement (e.g., movie rentals, toiletries, mini-bar purchases, personal phone calls);
2. employee number;
3. personal credit card or cheque information;
4. Driver’s license number and details; and
5. home addresses and telephone numbers.

### *The privacy consciousness of employees of public bodies*

My hope is that this request for access to information will remind employees of all levels of government in this province that they have a significant role to play in protecting their own privacy. Their use of various forms of information technology, including credit and debit cards, generates transactional data about their everyday lives as private individuals and public servants. Thus individuals should take appropriate steps to protect their privacy interests as they deem them to be important. In the context of the present inquiry, such practices would include paying cash for certain kinds of purchases and telephoning from pay phones rather than hotel rooms. Fear for one's personal health and safety can only reinforce concern for one's legitimate privacy interests.

#### **9. Order**

I find that the Ministry of Attorney General was authorized to refuse access to information in the records in dispute under section 19(1) of the Act. Under section 58(2)(b), I confirm the decision of the Ministry of Attorney General to refuse access to the applicant.

I also find that the Ministry of Attorney General was required to refuse access to the information in the records in dispute under section 22(1) of the Act. Under section 58(2)(c), I require the Ministry of Attorney General to refuse access to the applicant.

---

David H. Flaherty  
Commissioner

May 1, 1997