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**Office of the Information and Privacy Commissioner
Province of British Columbia
Order No. 254-1998
August 10, 1998**

INQUIRY RE: A decision by the Greater Vancouver Mental Health Service Society to refuse access to information.

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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 (the Office) on July 14, 1998 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 the response by the Greater Vancouver Mental Health Service Society (the Mental Health Service Society) to the applicant's request for notes related to discussions between named individuals on the topic of his eviction.

2. Documentation of the inquiry process

On February 20, 1998 the applicant requested access to the notes related to discussions between four named individuals on the South Mental Health Team and a named individual with the Kiwanis Society, having to do with a procedure starting June 1997, which resulted in his eviction. On March 18, 1998 the Mental Health Service Society responded by providing the applicant with copies of the eight pages of records which fell within the scope of his request. The Mental Health Service Society severed some information on pages 3-6 and 8 under section 19(1)(a) of the *Freedom of Information and Protection of Privacy Act* (the Act). In addition, it did not disclose part of page 7 on the grounds that the information was not within the scope of the applicant's request.

The applicant requested a review by the Office of the Information and Privacy Commissioner (the Office) of this decision on April 17, 1998. The ninety-day review period began on that day and was due to expire on July 16, 1998. As a result of mediation, the Mental Health Service Society disclosed pages 3-5, 7 and 8 in full on

May 13, 1998. It continued to apply section 19(1)(a) to the previously withheld part of page 6 and added section 22 to this part as well.

On May 27, 1998, the applicant informed the Office by telephone that he wished to proceed to inquiry on the still-withheld portion of page 6. He confirmed this in writing on June 10, 1998. The Office issued a Notice of Written Inquiry to the applicant, the public body and a third party on June 15, 1998. By the consent of the parties, the inquiry was re-scheduled from July 7, 1998 to July 14, 1998.

3. Issue under review and the burden of proof

At this inquiry, I reviewed the public body's application of sections 19(1)(a) and 22(2)(f) and (g) of the Act to part of a record. These sections read as follows:

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

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
- ...
 - (f) the personal information has been supplied in confidence,
 - (g) the personal information is likely to be inaccurate or unreliable, and
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Section 57 of the Act establishes the burden of proof on the parties in this inquiry. Under section 57(1), where access to information in the record has been refused under section 19(1)(a), it is up to the public body 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 personal information would not be an unreasonable invasion of the third party's personal privacy.

4. The record in dispute

The record in dispute is the severed portion of page 6, a record entitled "MHES/Venture Alert Update." The severed portion falls under the heading: "Special Instructions to MHES/Venture."

5. The applicant's case

The applicant believes that the severing of a record in dispute "impedes the course of natural justice, and prejudices" his case with the B.C. Human Rights Commission, because the complaints against him were not made in good faith. It appears that he has been evicted from his housing. He believes that the severed information may assist his "assessment for medical treatment and rehabilitation."

A considerable amount of the information and argument provided to me by the applicant is not relevant to the limited decision that I have jurisdiction to make under the Act. The Mental Health Service Society has discussed and responded to some of these matters in its reply submission, which has been shared with the applicant.

6. The Greater Vancouver Mental Health Service Society's case

I have discussed below the Mental Health Service Society's arguments with respect to the application of specific sections of the Act.

7. The third party's case

I have reviewed an *in camera* submission from the third party.

8. Discussion

Section 19: Disclosure harmful to individual or public safety

The Mental Health Service Society fears that the safety of the third party may be at risk by disclosing the severed information to the applicant and urges me to act prudently in this regard. See Order No. 18-1994; Order No. 28-1994; Order No. 108-1996.

I have also reviewed an *in camera* submission from the Mental Health Service Society with respect to its argument that disclosure could reasonably be expected to threaten the safety of the third party. Based on my review of this submission, I find that the Mental Health Service Society has appropriately applied section 19(1)(a) of the Act.

9. Order

I find that the Greater Vancouver Mental Health Service Society was authorized to withhold or sever information from the records in dispute under section 19 of the Act. Under section 58(2)(b) of the Act, I confirm the decision of the Greater Vancouver Mental Health Service Society to refuse access to the records in dispute on the basis of section 19.

I also find that the Greater Vancouver Mental Health Service Society was required to withhold or sever personal information from the records in dispute under section 22(1) of the Act. Under section 58(2)(c) of the Act, I require the Greater Vancouver Mental Health Service Society to refuse access to all or part of the records withheld or severed under section 22(1).

David H. Flaherty
Commissioner

August 10, 1998