

**THE NOVA SCOTIA FREEDOM OF INFORMATION  
AND PROTECTION OF PRIVACY ACT**

**A REQUEST FOR REVIEW** of a decision of the **DEPARTMENT OF JUSTICE** to deny parts of documents provided to the Applicant.

**REVIEW OFFICER:** Darce Fardy

**REPORT DATE:** **March 7, 2002**

**ISSUE:** Whether exemptions under Sections 15(1) (identifying a confidential source of law enforcement information) and 20(1) (protection of personal privacy) support the decision to sever documents provided to the Applicant.

In a Request for Review, under the **Freedom of Information and Protection of Privacy Act**, received January 4, 2002, the Applicant asked that I recommend to the Department of Justice (the Department) that it provide him with the information severed from the documents he has received.

The Applicant wanted a copy of his probation file and signed medical consent form. He was provided with the records except for brief portions which were withheld under exemptions claimed under s.15(1)(d) and s.20(1).

**Section 15(1)(d)** gives a public body the discretion to deny access to information when disclosure could reasonably be expected to reveal the identity of a confidential source of law-enforcement information.

During the Review the Department also cited subsections 20(2)(e) and (f) which expect a public body to consider whether disclosing personal information would expose a third party unfairly to harm and whether the personal information was supplied in confidence.

**Section 20(1)** obliges a public body to refuse to disclose personal information if disclosure would be an unreasonable invasion of a third party's personal privacy.

In accordance with s.38 I have been provided with the documents at issue.

**Conclusions:**

In this Review I must consider the arguments of the public body without disclosing any details of the severed information.

Although there is a third party involved, the Department did not notify that person of the application in order to offer them an opportunity to object or consent to the disclosure of the information sought. The Department was satisfied that it knew what the reaction of the third party would be. Given the circumstances of this case I think it is safe to assume that the third party would not consent to disclosure. **Section 22(1)(A)** does not require notice to be given in these circumstances.

The information being denied was provided to the probation officer in confidence, which is a factor to be considered by a public body when determining if disclosure of personal information would be an unreasonable invasion of a third party's personal privacy. The Department did not address subsection 20(3) which provides examples of the kinds of information which would, if disclosed, be presumed to be an unreasonable invasion of privacy,

or s.20(4) which lists information which would not be an unreasonable invasion of privacy if disclosed. I am satisfied that the information in dispute is not among the kinds listed in s.20(4).

With respect to subsections 20(2)(e) & (f), I am satisfied that harm to the third party is possible if the severed information is disclosed and that the severed information was provided in confidence.

In my view, s.20(1) supports the decision to sever even though it matches none of the examples provided in s.20(3).

With respect to s.15(1)(d), it is my view that disclosing the severed information would reveal the identity of a confidential source of law enforcement information. Severing only the name in the information would not hide the identity of that person.

I agree with the Department's decision to sever.

**Dated** at Halifax, Nova Scotia, March 7, 2002.

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Darce Fardy, Review Officer