

FILE NO. - 96/008

**REPORT WITH RESPECT TO THE APPLICATION
FOR REVIEW OF [REDACTED] WITH RESPECT TO INFORMATION
REQUESTED FROM SASKATCHEWAN HEALTH**

[REDACTED], applied to Saskatchewan Health for access to information, namely:

"All nomination forms for the applicants for appointment to District Health Boards in Saskatchewan as completed by applicants."

By letter dated December 19, 1995, he was advised by the Department:

The records you have requested cannot be released because they contain personal information. Information of this nature is exempt from access according to Section 29 of *The Freedom of Information and Protection of Privacy Act*.

These nominations were sought by the Minister for the purpose of making appointments to District Health Boards pursuant to *The Health Districts Act* and *The District Health Board's Election Regulations*. A copy of the form to be completed by each nominee and the candidates acceptance form are attached as Appendix "A" hereto, and it will be noted that each nominee was invited to attach a copy of his or

her resume providing a history of community activities, education and employment experience.

In the result, 438 nominations were received, and of those a total of 120 were selected and appointed to the 29 District Health Boards in Saskatchewan. I understand that a resume was included with each of the nominations setting out the requested information about the nominee.

It is obvious that each application contained information about each of the applicants, including name, address, occupation and a telephone number together with whatever additional information about each individual that was contained in the resume submitted by him or her.

Section 29(1) relied upon by the Department provides:

29(1) No government institution shall disclose personal information in its possession or under its control without the consent, given in the prescribed manner, of the individual to whom the information relates ..."

The purpose of this Section is, of course, the protection of the privacy of individuals, and in my view should be given a purposive interpretation, that is to say that it prohibits disclosure of information about individuals if the disclosure would constitute an unreasonable invasion of the privacy of such individual.

Section 24(1) of the Act provides:

"24(1) Subject to subsection 2 "personal information" means **personal information** about an identifiable individual that is recorded in any form and includes:

- (a) information that relates to the race, creed, religion, colour, sex, family status or marital status, disability, age, nationality, ancestry or place of origin of the individual;
- (b) information that relates to the education or the criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved;
- (c) information that relates to health care that has been received by the individual or to the health history of the individual;
- (d) any identifying number, symbol or other particular assigned to the individual;
- (e) the home or business address, home or business telephone number, fingerprints or blood type of the individual;
- (f) the personal opinions or views of the individual except where they are about another individual;
- (g) correspondence sent to a government institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to the correspondence that would reveal the content of the original correspondence, except where the correspondence contains the views or opinions of the individual with respect to another individual;
- (h) the view or opinions of another individual with respect to the individual;
- (i) information that was obtained on a tax return or gathered for the purpose of collecting a tax;
- (j) information that describes an individual's finances, assets, liabilities, net worth, bank balance, financial history or activities or credit worthiness; or
- (k) the name of the individual where:

- (i) it appears with other personal information that relates to the individual; or
- (ii) the disclosure of the name itself would reveal personal information about the individual."

Subsection 2 provides for a number of exceptions or exclusions which are not relevant here.

In my view, this Section must also be given a purposive interpretation, namely protection of an individual against an undue invasion of his or her privacy.

The notion of privacy carries with it the quality of confidentiality. The disclosure of information which is not in any sense confidential could never, it is suggested, constitute an invasion of privacy. This approach to the interpretation of these Sections was discussed to some extent by the Saskatchewan Court of Appeal in *G.M.A.C. of Canada v. Saskatchewan Government Insurance* 116 S.R. 36 per Tallis, J. A. at pp 41 to 44. The information may be among inclusions in Section 24(1), but it must still be "personal" in the sense that it is private or confidential.

It would appear to me that an applicant for appointment (or a candidate for election) to a public office should reasonably expect that information about himself or herself will necessarily be made or become known to the public to a greater or lesser extent, depending on the office, that this would include the very information which the applicants were invited to submit in this case, and that such persons would have no

reasonable expectation of privacy, and no reason to suppose that the information being supplied would be held on a confidential basis. Nor does it appear to me that any distinction in principle can be made between applicants who were, in fact, appointed and those who were not since it is reasonable to suppose that each applicant had an expectation of receiving an appointment. In addition to and apart from the foregoing, I would suggest that Section 29(2)(o) might be viewed as supporting the above interpretation, since it expressly permits the Department to disclose information if :

"... the public interest in disclosure clearly outweighs any invasion of privacy that could result from disclosure ..."

I have concluded that disclosure of the information in question is not prohibited by the Act, and consequently I recommend that the Head of the Department disclose the information requested by [REDACTED].

Dated at Regina, Saskatchewan this 28th day of May, 1996.

**Derril G. McLeod, Q.C.,
Commissioner of Information and
Privacy for Saskatchewan**