

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

[REDACTED] made an application for access to information to the Regina District Health Board on June 26, 1995. He sought access to records which he described as:

- "1. Housekeeper's statement following an alleged assault by me on [REDACTED].
2. Security Officer's statement regarding alleged assault on Housekeeper on [REDACTED].

By letter dated August 9, 1995 the request for access to these records was refused for reasons which were set out at some length in the said letter as follows:

**"Definition of "Personal Information"**

The information you have requested, namely, the statements of a housekeeper and a security officer regarding an incident of assault reported to have been committed by you on April 14, 1991, constitute "personal information" within the meaning of the Act. Clause 23(1)(h) of the Act defines "personal information" as personal information about an identifiable individual that is recorded in any form, including the views or opinions of another individual with respect to the individual. According to clause 23(2) of the Act, information which discloses the personal opinions or views of an individual employed by a local authority given in the course of employment does not constitute "personal information" unless the personal opinions or views are with respect to another individual. In this case, recorded statements made by a housekeeper and a security officer employed by the Regina Health District (the "District") regarding an incident of assault reported to have been committed by you, constitute those individuals' personal views or opinions about you. Therefore, the statements fall within the definition of "personal information".

## **Individual's Access to Personal Information**

Clause 30(1) of the Act provides that an individual who makes an application for access to a record which contains his own personal information shall ordinarily, upon giving sufficient proof of his identity, be given access to the record. However, the clause further provides that access to the record may be refused on any of the grounds for exemption contained in Part III of the Act. The grounds for exemption contained in Part III of the Act upon which I am relying in refusing to grant your Request for Access to Information are as follows:

### **1. Law Enforcement and Investigations**

Clause 14(f) of the Act provides that access to information may be refused if the release of the information could disclose the identity of a confidential source of information or disclose information furnished by that source with respect to a lawful investigation. In this case, the incident of assault reported to have been committed by you on April 14, 1991, was lawfully investigated by the District. The housekeeper and security officer who provided the District with information regarding the incident, in the form of the statements you requested, are confidential sources of information regarding the incident. Disclosing the statements made by those confidential sources would disclose their identities and would disclose information furnished by them which was referred to by the District in its investigation of the incident. Accordingly, I must refuse to grant you access to the statements on the basis of clause 14(f) of the Act.

### **2. Danger to Health and Safety**

Clause 20 of the Act provides that access to information may be refused if the disclosure could threaten the safety or the physical or mental health of an individual. In this case, disclosing the statement made by the victim of the incident of assault reported to have been committed by you, and the statement made by the security officer who investigated the incident, would reveal their identities. In light of the repeated attempts you have made to contact the individuals, I am of the opinion that some reasonable consideration must be given to the possibility that disclosing their statements could threaten their safety or their physical or mental health. Accordingly, I must refuse to grant you access to the statements on the basis of Clause 20 of the Act."

Some background information is necessary. The incident in question occurred at the Wascana Rehabilitation Centre on [REDACTED] at approximately 11:30 p.m. [REDACTED] was

a patient in the Centre at the time and was apparently under the influence of alcohol. He made forceable advances of a sexual nature to a female housekeeping employee which were interrupted by the arrival of a Security Officer. The Security Officer and female employee both made written reports of this incident, and in the result [REDACTED] was discharged from the Centre.

I am unable to see how the statement of the Security Officer can be characterized as personal information about him. His timely arrival appears to have put an end to an unpleasant incident and he prepared a report as one would expect him to do in the ordinary course of his duties. His report is about the behaviour of [REDACTED] and the incident in question, and I am unable to see how it can be characterized as personal information about the Security Officer.

While it may not be quite so obvious, the same is true about the report prepared by the Housekeeper. She was an unwilling participant in the incident in question, but her report is about the incident and about the behaviour of [REDACTED]. It is not personal information about herself to which she had any expectation whatever of privacy, particularly since the incident was witnessed by the Security Guard.

There does not appear to me to be any basis for suggesting that the disclosure of the statements would be an invasion of the privacy of these employees.

Notwithstanding the nature of the incident in question no criminal charges were laid against [REDACTED]. Had this occurred both the Housekeeper and the Security Guard would have been necessary as witnesses to the event.

Furthermore, even if the statements are characterized as "personal information" it appears to me that they fall within the exception to the prohibition from disclosure contained in subsection 28(1) of the Act by the Regulations made pursuant to subsection 28(2)(s) of the Act which includes:

**"10** For the purposes of clause 28(2)(s) of the Act personal information may be disclosed:

- (q) to any person where the information pertains to:
  - (i) the performance of any function or duty or the carrying out of any responsibility by an officer or employee of a local authority ..."

The Board also relied upon Section 14(1)(f) of the Act:

**"14(1)** The head may refuse to give access to a record the release of which could:

- (f) disclose the identity of a confidential source of information or disclose information furnished by that source with respect to a lawful investigation or a law enforcement matter; ..."

I am unable to agree that the statements of these employees of the Board can be characterized as a "confidential source of information". As between the Board and its employees there was no arrangement whereby these employees would supply information to the Board on a confidential basis. The employer had the right to obtain this information regarding this incident in its establishment and to use it as it saw fit, and this does not give rise to any relationship of confidentiality between the parties.

The final point raised by the Board is danger to health and safety. Section 20 of the Act provides:

"A head may refuse to give access to a record if the disclosure could threaten the safety or the physical or mental health of an individual."

I am not satisfied that this section is applicable to the statement of the Security Officer nor do I think it is a sufficient basis for withholding the statement of the Housekeeper. However, to remove any possibility of risk to her physical and mental wellbeing I consider it would be appropriate to remove any reference to her identity from the statement of the Security Officer as well as her own statement.

Accordingly I am recommending that the statements be provided to the Applicant with all references to the identity of the Housekeeper deleted.

Dated at Regina, Saskatchewan this                      day of December, 1996.

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