



Information and Privacy
Commissioner/Ontario

Commissaire à l'information
et à la protection de la vie privée/Ontario

A Special Report

to the Legislative Assembly of Ontario

on the Disclosure of Personal Information

at the Ministry of Health

February 20, 1997

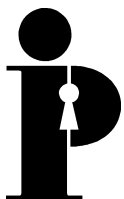
Submitted by Tom Wright
Information and Privacy Commissioner/Ontario



2 Bloor Street East
Suite 1400
Toronto, Ontario
M4W 1A8

2, rue Bloor Est
Bureau 1400
Toronto (Ontario)
M4W 1A8

416-326-3333
1-800-387-0073
Fax/Télé: 416-325-9195
TTY: 416-325-7539
Website: www.ipc.on.ca



**Information and Privacy
Commissioner/Ontario**

2 Bloor Street East
Suite 1400
Toronto, Ontario
M4W 1A8

416-326-3333
1-800-387-0073
Fax: 416-325-9195
TTY (Teletypewriter): 416-325-7539
Website: www.ipc.on.ca

This publication is also available on the IPC website.
Cette publication est également disponible en français.

Table of Contents

Executive Summary	1
Introduction	3
The Privacy Incident	3
The Request to Investigate	3
The Type of Information at Issue	3
Background	4
The Specialist Retention Initiative Program	4
The Freedom of Information Request	4
Scope of the Investigation	6
Site Inspection	7
a) Minister’s Office	7
b) Electronic Mail System	8
Issues Arising from the Investigation	9
Results of the Investigation	10
Issue A: Was the information in question “personal information” as defined in section 2(1) of the Act?	10
Issue B: Was the disclosure of the personal information in compliance with section 42 of the Act?	12
Issue C: Were there any additional circumstances related to the disclosure?	13
i) Was information available in the Ministry on the “top billers” to OHIP?	13
ii) How did James obtain the information he disclosed?	14
Issue D: Role of the Minister’s Office in the events of December 5–6, 1996	16
Other Matters	18
Access to Physician Billing Information by the Minister’s Office	18

Summary of Conclusions	19
Recommendations	20
Postscript	21
Appendix A — The Globe and Mail article, December 7, 1996	22
Appendix B — Letter from the Secretary of Cabinet, December 9, 1996	24
Appendix C — Application for Registration to SRI; Extension of Enrollment to SRI	25
Appendix D — Agreement to Participate in SRI	29
Appendix E — Ministry FIPP Report, July 19, 1996	31
Appendix F — Section 42 of the Act	32
Appendix G — Oath of Office and Secrecy	34
Appendix H — List of Individuals Interviewed in the Order Interviewed	35

Executive Summary

On December 5, 1996, Brett James, communications special assistant to Jim Wilson, Minister of Health, telephoned Jane Coutts, reporter for *The Globe and Mail*, to discuss a news conference scheduled for that morning by the Specialist Coalition of Ontario. At the time, physicians in the province were in negotiations with the Ministry on a number of financial issues. The Specialist Coalition is an organization representing specialist physicians; the Vice-Chair of the Coalition is Dr. William Hughes.

After leaving a message for Coutts to return his call, James watched the news conference attended by both Hughes and Coutts. Coutts later returned James' call, leaving a message for him. Around noon on December 5, James telephoned and spoke with Coutts. During the course of their conversation about the news conference and the questions Coutts had asked Hughes, James allegedly told Coutts that Hughes was the “No. 1’ biller” to the Ontario Health Insurance Plan (OHIP).

On December 6, 1996, Coutts telephoned James and informed him that she intended to write about his comments of the previous day concerning Hughes. Later that day, James resigned from his position in the Minister's Office.

In *The Globe and Mail* on December 7, 1996, Coutts wrote that James had told her that Hughes, a Peterborough cardiologist, “was Ontario's ‘No. 1’ biller, charging more to OHIP than any other doctor in the province.”

On December 9, 1996, “in light of concerns that a former member of his [the Minister's] staff may have had access to confidential physician billing information...”, the Information and Privacy Commissioner/Ontario (IPC) was asked by Cabinet Office to investigate, “this particular incident as well as the practices of the Health Insurance Division with respect to its disclosure of such information.”

This report outlines the IPC's investigation of the privacy incident that took place on December 5, 1996. A review of the general information practices of the Ministry's Health Insurance Division with respect to physicians' billing information is being completed separately. In light of the conclusions reached in the investigation, that review has no relevance to the incident investigated in this report.

The investigation was unable to determine conclusively whether, during the course of their conversation on December 5, James said to Coutts that Hughes was “the” top biller, or “one of the” top billers to OHIP.

The IPC's investigation did conclude that for purposes of the *Freedom of Information and Protection of Privacy Act* (the *Act*) either version of James' possible comments to Coutts constituted a disclosure of Hughes' personal information. The disclosure was of information related to Hughes' OHIP billings, which constitute "financial transactions in which the individual has been involved" and meet the requirements of paragraph (b) of the definition of "personal information" in section 2(1) of the *Act*.

No document was found to exist ranking identifiable physicians by their OHIP billing amounts. Nor was there any document which identified the top-billing physician in the province. In addition, none of the 18 persons interviewed during the investigation had any knowledge of the identity of the top-billing physician in the province.

The investigation concluded that James' disclosure of Hughes' personal information was not in compliance with the *Act*. The investigation concluded that Wilson had no prior knowledge or awareness of the information disclosed by James and that James made the disclosure on his own initiative.

A summary of the report's specific conclusions follows:

- James disclosed to Coutts either that Hughes was "the" top biller or "one of the" top billers to OHIP.
- The information in question was "personal information" as defined in section 2(1) of the *Act*.
- The disclosure of Hughes' personal information was not in compliance with section 42 of the *Act*.
- No document ranking identifiable physicians by their OHIP billing amounts was found to exist in the Ministry.
- James did not have access to identifiable physician billing information.
- James disclosed Hughes' personal information on his own initiative without the knowledge of, or at the request of, Wilson, other Minister's Office or Ministry staff.

Introduction

The Privacy Incident

In an article which appeared in *The Globe and Mail* on Saturday, December 7, 1996, reporter Jane Couotts wrote that Brett James, communications special assistant to Jim Wilson, the Minister of Health, had told her that a Peterborough cardiologist, Dr. William Hughes, “was Ontario’s ‘No. 1’ biller, charging more to OHIP than any other doctor in the province.” (See Appendix A)

At the time of *The Globe and Mail* article, physicians in the province were in the midst of negotiations with the Ministry of Health over a number of issues. Hughes was the Vice-Chair of the Specialist Coalition of Ontario, an organization representing physicians practising in a speciality area of medicine.

On Thursday, December 5, 1996, James had spoken to Couotts by telephone following a news conference that had been held by the Specialist Coalition and led by Hughes. During the course of this conversation, the disclosure of information allegedly occurred.

The Request to Investigate

On Friday, December 6, 1996, Couotts informed James by telephone of her intention to write about his comments regarding Hughes’ billings. Later that day, James resigned from his position in the Minister’s Office.¹

On Monday, December 9, 1996, “in light of concerns that a former member of his [the Minister’s] staff may have had access to confidential physician billing information...”, I was asked by Cabinet Office to investigate “this particular incident as well as the practices of the Health Insurance Division with respect to its disclosure of such information.” (See Appendix B)

On that same day in the Legislature, Wilson announced that he was stepping aside as Minister of Health, pending the outcome of the investigation by the Information and Privacy Commissioner (IPC).

The Type of Information at Issue

The nature of the information alleged to have been disclosed by James involved physician billing information, not patient health information. The two types of information are quite distinct from each other. It should be noted that at no time during the course of this investigation was any patient health information accessed or reviewed.

¹ In this report, the term “Minister’s Office” is used to describe the ministerial staff. The physical office occupied by the Minister is referred to as “Wilson’s office.”

Background

The Specialist Retention Initiative Program

The Ministry of Health (the Ministry) administers a program called the *Specialist Retention Initiative* (SRI) which is designed to encourage specialists to maintain services in areas of marked undersupply, and to discourage specialists providing rare sub-speciality services from leaving the province as a result of the government's threshold on OHIP billings. Specialists admitted to the SRI program are exempt from the set threshold or "cap" on their billings. For the fiscal year 1995-1996, the provincial threshold was \$404,000, and Hughes was one of the specialists admitted to the SRI program for that period.

All applicants to the SRI program must complete an application form and questionnaire, which contains a consent stating: "I further understand that by signing this agreement to participate in the SRI, my name will be included in the Ministry's list of specialists admitted to the SRI and that this list may be made available to the public." Specialists already admitted to the program prior to April 1, 1996 completed an Extension of Enrollment form which included the identical consent. (See Appendix C) In addition, upon being accepted into the program, specialists are required to sign an agreement containing the following provision: "The name of each specialist participating in the SRI shall be included in the Ministry's list of SRI specialists, and such list shall be made available to the public by the Ministry." (See Appendix D) For the period 1995-96, both the extension of enrollment and the agreement forms were signed by Hughes.

The Freedom of Information Request

In April 1996, the Ministry received a freedom of information request from a *Toronto Star* reporter for "... the names and earnings of all doctors in Ontario exempt from the Ontario Health Insurance Plan \$400,000 cap." A list in alphabetical order, consisting of the names of specialists exempted under the SRI program and the dollar amounts of their approximate billings,² from April 1995 to March 1996, was generated. Hughes was one of 88 specialists whose names appeared on this list. A second list produced in the same format contained the names of 12 physicians exempted under the Underserviced Area Program (UAP). The UAP extends to both general practitioners and specialists practising in northern Ontario. Doctors admitted to this program are also exempt from the set threshold. Hughes' name did not appear on the second list.

² The column containing the dollar amounts was headed "Fiscal 95/6 Approx. Earnings." However, we learned that the actual amounts which appeared on the list reflected *total billings*, consisting of both professional *and* technical fees billed by specialists. We have chosen to use the term "billings" throughout the report instead of "earnings" since the latter tends to be associated with personal income.

We were advised that the lists containing the billing amounts were created specifically in response to this freedom of information request. Prior to their release, however, the dollar amounts of physicians' billings were deleted and only the names of physicians were disclosed. This first list, containing only the names of the SRI specialists, will be referred to throughout this report as "the SRI List."³

The disclosure of specialists' names exempted from the threshold of \$404,000 was made pursuant to the consents they had signed upon being accepted to the SRI program.

On a daily basis, it is the practice of the Ministry's Freedom of Information and Protection of Privacy (FIPP) Office to send an e-mail to staff located in four areas of the Ministry (Minister's Office, Deputy Minister's Office, Communications and Information Branch, and Legal Services Branch), advising of requests made under the *Freedom of Information and Protection of Privacy Act* (the *Act*). The standard e-mail consists of a status report on freedom of information requests, including a brief description of what was requested, the category of requester (i.e., Individual, MPP, Media, or Business), and what information has been released. In his capacity as the Minister's special assistant – communications, James was one of 12 people whose names appeared on the distribution list to receive this e-mail. Wilson's name was not on the distribution list.

On July 19, 1996 the SRI List was released. On that same date, in addition to the standard daily FIPP e-mail, (see Appendix E) individuals on the Ministry e-mail distribution list were specifically advised of its release through an e-mail from the FIPP Office. James later saw a copy of the SRI List released pursuant to this freedom of information request (see Issue C (ii)).

³ It should be noted that the name of the top billing physician to OHIP may not necessarily appear on the SRI List. There are two reasons for this: First, while specialists approved for the SRI program are permitted to bill in excess of the set threshold, they may not necessarily do so. Second, it is possible for a physician to be the highest biller in the province yet not be enrolled in the SRI program.

Scope of the Investigation

This report outlines the IPC's investigation of the privacy incident that allegedly took place on December 5, 1996. A review of the general information practices of the Health Insurance Division of the Ministry with respect to physicians' billing information is being completed separately. In light of the conclusions reached in the investigation, that review has no relevance to the incident investigated in this report.

The investigation included a series of 18 interviews (see Appendix H for a complete list of those interviewed), as well as a review of all relevant documentation relating to the privacy incident. Nineteen individuals were contacted for interviews, and all but one agreed to be interviewed. Coutts, through the lawyer for *The Globe and Mail*, declined our request to be interviewed.

I am pleased to report we received the complete co-operation of all those interviewed. The interviewees also fully and expeditiously complied with our requests to provide materials relevant to our investigation. This greatly assisted us in completing a thorough and extensive investigation in a timely fashion using only existing resources.

Site Inspection

a) Minister's Office

An on-site inspection of Wilson's and James' offices was conducted on Thursday, December 12, 1996 by myself and my Assistant Commissioner (Privacy). The Assistant Commissioner and I also met with the Deputy Minister of Health (the Deputy Minister) and the Director of Legal Services (the Director of Legal).

At that time, we inspected the entrance to James' office as well as the papers which had been removed from the office. The door to James' office was sealed with two-inch wide adhesive tape. The papers in James' office (those not in his filing cabinet or bookshelf), had been packed by Wilson's Executive Assistant (the Executive Assistant) on Sunday, December 8, 1996. The papers filled seven boxes which were sealed and moved into Wilson's office on Monday, December 9. That afternoon, the offices of Wilson and James were locked and entry denied to all but the Deputy Minister and the Director of Legal. The Director of Legal was the only person in possession of the keys to these two offices.

On Friday, December 13, 1996, a Compliance Investigator from the IPC attended Wilson's office in order to review the correspondence files that had been awaiting his review and signature. These files had been locked in Wilson's office since his resignation on December 9, 1996.

The Compliance Investigator, along with the Executive Assistant, reviewed the correspondence in detail to determine whether it contained information relevant to this investigation. No information relating to this investigation was found. After the inspection, the correspondence files were permitted to be removed from Wilson's office.

On Thursday, January 9, 1997, the Compliance Investigator attended Wilson's office a second time in the presence of James, his lawyer, and the Ministry's lawyer, to review the material that had been removed from James' office and packed into seven boxes. At this time, James' office was also unsealed, and any additional material found was reviewed. James' e-mail and voice mail were also examined. No information was found relating to identifiable or individual physicians' billing amounts.

We obtained and reviewed a copy of the "Entry Control Register" for Saturday, December 7 and Sunday, December 8, 1996, which is the sign-in list of any weekend visitors to the Macdonald Block (the building where Wilson's office is located). We verified that neither James' nor Wilson's name appeared on the log.

In our view, Wilson's and James' offices and the records stored therein were secured from the afternoon of Monday, December 9, 1996 until Thursday, January 9, 1997, when the Compliance Investigator completed her review of the records. We have no reason to believe that any materials relevant to this investigation had been removed, tampered with or destroyed. All Ministry interviewees were asked whether they had altered or destroyed any records relevant to this investigation. All answered "No" in response to this question.

b) Electronic Mail System

Also on December 12, 1996, we asked the Ministry to disengage the existing "auto-delete" function from James' e-mail, which it agreed to do. Absent this request, the normal practice of automatically deleting e-mails, according to a set schedule, would have taken effect.

We reviewed an index of James' e-mails from the backup tapes maintained by the Ministry for two time periods: from November 25 to December 6, 1996 (the two weeks prior to James' resignation), and July 22 to August 2, 1996 (two weeks after the release of the records in response to the freedom of information request). No information was found relating to identifiable or individual physicians' billing amounts.

Issues Arising from the Investigation

The following issues were identified as arising from the investigation:

- (A) Was the information in question “personal information” as defined in section 2(1) of the *Act*? If yes,
- (B) Was the disclosure of the personal information in compliance with section 42 of the *Act*?
- (C) Were there any additional circumstances related to the disclosure?
- (D) Role of the Minister’s Office in the events of December 5–6, 1996.

Results of the Investigation

Issue A: Was the information in question “personal information” as defined in section 2(1) of the Act?

James advised that he was the only person responsible for communications in the Minister’s Office, dealing with, on average, 20 to 30 media calls a day. Wilson and the Executive Assistant both verified that responding to media calls was among James’ duties and responsibilities. Both Wilson and the Executive Assistant confirmed that they would not normally be informed of any discussions James intended to have with members of the media.

James was in contact with Coutts virtually on a daily basis, and informed us that he had tried to call her at *The Globe and Mail* on the morning of Thursday, December 5, 1996. He told us the purpose of the call was to find out if she knew if Dr. David Mendelsohn, Chair of the Specialist Coalition, was going to be present at a news conference scheduled by the Coalition for that morning. He did not speak to her but left a message for her to call. James said that he watched the news conference on closed circuit television and saw Coutts there. Coutts called James back after the news conference and left a message for him. James returned her call “around noon” and spoke with Coutts at that time.

James told us that he and Coutts were discussing the news conference and her questions to Hughes when he (James) said: “You know Jane, if you wanted to have fun some time, you should ask Bill Hughes how much he bills in a year.” James said that Coutts then asked: “Why, is he the top biller?” James said he then replied: “I don’t know, but he’s up there.” According to James, Coutts then said: “I wouldn’t be able to verify that.” James said he agreed that she wouldn’t be able to verify it (Hughes being the top biller), unless Hughes did it for her.

James told us that he did not, in fact, know if Hughes was the top biller. He also said he did not discuss his conversation with Coutts with anyone else that day (December 5, 1996).

On Friday, December 6, 1996, James said that Coutts called him around noon. According to James, Coutts said: “You know Brett, what you said yesterday, I feel obligated to write about it.” James recalled replying: “What do you mean? ... What are you talking about?” to which she replied: “You know, the fact that a member of the Minister’s staff wanted to tell me that Dr. Hughes was the province’s top biller.”

James informed us that he was “shocked” at hearing this and that his first response had been: “No, I never said he was the top biller, those were your words.” James recalled Coutts then saying: “No, what I [Coutts] said was, ‘Why, is he a high biller?’ and you replied: ‘He’s number one’.” James said he was at “a loss for words.”

When interviewed, Hughes advised that Coutts had called his office on Friday, December 6, and had left a message for him to call her back, which he did at approximately 1:15 p.m. that day. Hughes stated that Coutts told him she had spoken to James, when she returned a call that had been made to her before the news conference. Coutts told Hughes that when she spoke with James, he had said to her: “You know, it’s too bad we didn’t speak earlier ... you should have asked Dr. Hughes about his billings.” Coutts then told Hughes that she had said: “Why, is he a big biller?” to which she said James had replied: “Number one.”

In a subsequent telephone conversation later that day, Coutts asked Hughes if he was in fact the number one biller, to which he replied he had no idea.

As noted earlier, we contacted Coutts for an interview regarding this matter, but through the lawyer for *The Globe and Mail*, she declined our request. Coutts, did, however, confirm through the lawyer that “she stood by her story,” including confirmation of the quote attributed to James regarding Hughes being the “No. 1’ biller.”

James indicated that after his conversation with Coutts on December 6, 1996, he discussed the incident with the Executive Assistant and the Deputy Minister. On that day, Wilson was in his constituency, and was not present at the Ministry.

On separate occasions, we interviewed the Deputy Minister and the Executive Assistant, who both verified that they had met with James on December 6, 1996, to discuss his conversation with Coutts.

The Deputy Minister said that the Executive Assistant and James had told her that a reporter had called James to say that a story might appear the next day about comments he had made about Hughes. James then explained that he had spoken to Coutts of *The Globe and Mail* and that she intended to write a story about him saying to her that Hughes was the top biller to OHIP. The Deputy Minister said she asked James if that was in fact what he had said. She said he told her that he was pretty sure he had said that Hughes was “one of the” top billers, but he couldn’t remember for sure.

The Executive Assistant recalled James saying that he had had a conversation with Coutts, but James couldn’t remember his exact words. The Executive Assistant said James believed he had said that Hughes was “one of the” top billers, but Coutts believed he had said Hughes was “the” top biller.

James also spoke to the former Minister’s special assistant – policy that day. When interviewed, the special assistant said that James had told him he couldn’t remember what he had said, but it was either that Hughes was “one of the” highest billers or “the” highest biller.

The Director of Legal also spoke with James on December 6. He told us that James had told him: “I don’t recall honestly what I said to her [Coutts]. I don’t think I used the words ‘the top biller’.” Further, the Director of Legal stated that James said he didn’t think he had used the words “top biller” because he did not know who the top biller was.

Section 2(1) of the *Act* defines “personal information” as recorded information about an identifiable individual, including,

...

- (b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or **information relating to financial transactions in which the individual has been involved** (emphasis added)

Based on the information available to me, I am unable to determine conclusively what James said to Coutts. However, whether James said that Hughes was “the” top biller or “one of the” top billers to OHIP it would, in either case, be information related to Hughes’ OHIP billing records. In my view, OHIP billings constitute “financial transactions in which the individual has been involved.” Consequently, either piece of information would meet the requirements of paragraph (b) of the definition of “personal information” in the *Act*.

Conclusions:

- James disclosed to Coutts either that Hughes was “the” top biller or “one of the” top billers to OHIP.
- The information in question was “personal information” as defined in section 2(1) of the *Act*.

Issue B: Was the disclosure of the personal information in compliance with section 42 of the *Act*?

Under the *Act*, an institution shall not disclose personal information in its custody or under its control except in the circumstances set out in sections 42 (a) to (n). (The complete text of this section may be found in Appendix F.)

Section 42(b) of the *Act* allows for the disclosure of personal information, “where the person to whom the information relates has **identified that information in particular** and consented to its disclosure.”(emphasis added)

As indicated on page four of this report, Hughes had signed the SRI agreement, thereby consenting to the inclusion of his name on an SRI List to be made publicly available by the Ministry. In response to a freedom of information request, such a list, minus the dollar amounts of specialists’ billings, was released to *The Toronto Star*, pursuant to section 21(1)(a) of the *Act*.

It is my view, however, that Hughes' consent to the release of his name on the SRI List did not extend to the information disclosed by James to Coutts, namely, that Hughes was either "the" top biller or "one of the" top billers. It cannot be said in either case that Hughes had "identified" the personal information "in particular and consented to its disclosure." Therefore, section 42(b) of the *Act* does not apply.

I have carefully reviewed the remaining provisions of section 42 of the *Act* and have found that none apply in the circumstances of this case.

Conclusion:

- The disclosure of Hughes' personal information was not in compliance with section 42 of the *Act*.

Issue C: Were there any additional circumstances related to the disclosure?

i) Was information available in the Ministry on the "top billers" to OHIP?

We interviewed all relevant Ministry staff to determine whether any Ministry record(s) existed which ranked identifiable physicians in Ontario according to their billing amounts. No one was aware of, or had ever seen, a list that ranked identifiable physicians by the amounts they had billed. The Assistant Deputy Minister, Health Insurance and Related Programs/General Manager of OHIP (the ADM/General Manager of OHIP) advised us that no such document existed. Both she and the Director of Provider Services (responsible for physicians' billings) said that a document of this nature was not produced because there was no management need for it. The Director of Provider Services, who had been in her position for six years, added that she had never been asked to produce such a document. In addition, when asked who the "top biller" to OHIP was, all Ministry staff who were interviewed said unequivocally that they did not know.

During their interviews the Deputy Minister, the ADM/General Manager of OHIP and the Director of Provider Services each offered a view as to the possible speciality area of the top billing physician. No one thought the top biller would be practising in cardiology.

As part of our investigation, the Manager and an Officer from the Compliance Department of my office attended at the Health Insurance Division (HID) offices in Kingston, Ontario. During their 12 day on-site inspection, they interviewed numerous HID staff, reviewed relevant computer programs used to access physicians' billing information, and examined numerous computer files and reports associated with this information.

They did not find any documents which ranked identifiable physicians by their billing amounts. This type of information was not available via any existing computer program, nor found to be maintained on the mainframe computer, or on staff personal computers. Staff who were interviewed confirmed that no such information was available — a special computer program would have to be written to generate such information.

Based on the interviews conducted and the information obtained through our own on-site inspection, it is my view that no document exists or is routinely produced that ranks identifiable physicians by their respective billing amounts. Nor was there any document in existence that identified the top billing physician in the province.

ii) How did James obtain the information he disclosed?

We interviewed James on two separate occasions.

As noted earlier, James was on the distribution list of staff who received a daily e-mail about freedom of information requests. James and others on this list were also sent a specific e-mail on July 19, 1996 regarding the release to *The Toronto Star* of the list of physicians' names whose billings were permitted to exceed the threshold of \$404,000. When we examined the action log for the e-mails received by James, we noted that neither of these two e-mails had been read: both the daily e-mail regarding freedom of information requests and the specific e-mail pertaining to *The Toronto Star* request were identified by the system as “unread.”

However, when the Executive Assistant was questioned on this issue, she recalled that upon receiving the daily e-mail (Appendix E) about the release of the SRI List, she had asked for a copy from the FIPP Office. She said the reason for requesting a copy was that she thought it might be relevant to the Ministry's review of thresholds for doctors' billings. She stated it was possible she would have shared her copy with James since “it was topical” and related to the Ministry's review of threshold levels.

Information obtained from the FIPP Office supported the Executive Assistant's recollection. We were told that on July 19, 1996, the Program Adviser in the FIPP Office had prepared the decision letter accompanying the disclosure of the lists without the dollar amounts of the physicians' approximate billings — that portion of the record was exempted from disclosure pursuant to sections 21(2)(f) and 21(3)(f) of the *Act*. The Program Adviser had then sent the specific e-mail advising of the release of this information. The Program Adviser confirmed that on July 22, 1996, he was asked by the Executive Assistant to provide her with a copy of the record disclosed to *The Toronto Star*.

FIPP Office documents confirmed that the only other person at the Ministry to request a copy of the SRI List from the FIPP Office, prior to the December 5, 1996 incident, was a Communications Officer in the Communications and Information Branch of the Ministry. This person advised that he had requested a copy of the SRI List because it had been released to the media. As a Communications Officer, he was required to be aware of information provided to the media.

While a copy of the SRI List was not in our hands at the time of our first interview with James, he recalled that Hughes' name had appeared "somewhere around the middle of the list." In fact, Hughes' name appears 37th on a list of 88 names. In his second interview, when shown a copy of the SRI List obtained by the Executive Assistant, James indicated that it looked like the copy he had seen — it was in the same format.

James could not identify an exact date when he had seen the SRI List but stated that, logically, he would have seen the document around the time of its release. James stated that his comments quoted in the December 7, 1996 *Globe and Mail* article, that he had seen "a piece of paper" months ago "... for entirely different reasons," had been a reference to the SRI List released pursuant to *The Toronto Star* freedom of information request. James could not recall with certainty whether he had received his own copy of the SRI List, or had seen someone else's copy.

Based on the interviews conducted and in the absence of the existence of any document ranking identifiable physicians by their billing amounts or identifying the top billing physician, in my view, it is reasonable to conclude that James did not have access to identifiable physician billing information and that he saw the Executive Assistant's copy of the SRI List.

Further, I am satisfied that if James in fact said to Coutts that Hughes was the "top biller" to OHIP, he had no factual basis for doing so. I am also satisfied that by seeing the SRI List James knew that Hughes was one of 88 specialists in Ontario who were not subject to the set threshold on billings.

Conclusions:

- No document ranking identifiable physicians by their OHIP billing amounts was found to exist in the Ministry.
- James did not have access to identifiable physician billing information.

Issue D: Role of the Minister's Office in the events of December 5–6, 1996

We interviewed Wilson on two separate occasions.

Wilson advised us that he had been in his constituency on December 6, 1996. Wilson also advised us that he did not know about, nor did he see, the news conference on Thursday, December 5. He also said he did not know that the news conference was the reason for James' call to Coutts. Wilson said he had no discussions with James about the Specialist Coalition news conference, nor had he asked James to call Coutts. On this same point we specifically asked James if Wilson had asked him to call Coutts. James answered "No" and said that he had called Coutts on his own initiative.

The Executive Assistant indicated that Wilson would not have had an opportunity to see the news conference, since he was in meetings all Thursday morning. She also stated that Wilson would not have had a chance to speak to James because of his (Wilson's) schedule.

Wilson told us that his only involvement with the freedom of information process in the Ministry was if a request was related to his personal expenses or staff expenses. The Deputy Minister confirmed that this was the case. When shown the SRI List that had been disclosed pursuant to *The Toronto Star* request, Wilson advised he had never seen it. He said he did not know about the freedom of information request, or the response to it. The Executive Assistant confirmed that she had never given Wilson a copy of the SRI List, nor had he asked her for one.

The FIPP Office confirmed that Wilson had not been sent a copy of the record responsive to the freedom of information request. James advised that he did not recall any discussions with Wilson about the SRI List. The Communications Officer, the only other person who had requested a copy of the SRI List from the FIPP Office, said he had not shown his copy to anyone. He also confirmed that he had not spoken to Wilson about the SRI List.

Wilson advised us that at approximately 3 p.m. on December 6, his Executive Assistant had called to inform him of the telephone conversation between James and Coutts. Wilson stated that he had discussed the possibility of James' dismissal with her at that time.

James told us that some time after 4 p.m. on December 6, 1996, the Executive Assistant asked for his resignation. James wrote out his letter of resignation at 4:30 p.m. The Executive Assistant informed us that she told her staff that James had resigned as he had made inappropriate comments to the media. She said she also stressed to staff the importance of maintaining confidentiality at all times with respect to personal information to which they had access.⁴

⁴ All staff of the Minister's Office, including James, were required to sign an "Oath of Office and Secrecy" when hired, requiring in part that, "I will not disclose or give to any person any information or document that comes to my knowledge or into my possession by reason of my being a member of the Minister's staff..." (See Appendix G for full text).

Wilson advised us that he had telephoned Hughes late in the day on December 6, 1996, to inform him that James was no longer employed in his Office. Wilson also expressed his regret and told Hughes he was sorry for any embarrassment the incident might have caused him.

Based on the interviews conducted and the information available to me, I have no reason to believe that Wilson, other Minister's Office or Ministry staff requested James to disclose Hughes' personal information.

Conclusion:

- James disclosed Hughes' personal information on his own initiative without the knowledge of, or at the request of, Wilson, other Minister's Office or Ministry staff.

Other Matters

Access to Physician Billing Information by the Minister's Office

We confirmed with a number of interviewees that the Minister and his staff did not require information regarding the amount that an individual physician had billed OHIP, that is, they didn't need to know that a particular physician had billed a particular amount. The interviewees from the Minister's Office confirmed this point and said they only needed aggregate or total data concerning physicians' billings by the various areas of speciality (not individual billing amounts) to assist, for example, in determining the level of physicians' billing thresholds. The Minister's staff who were interviewed also indicated that they had made no requests for any identifiable billing information concerning individual doctors; nor had they requested specific billing information relating to Hughes. Everyone interviewed stated that Wilson had never asked them to obtain any information relating to individual physicians' billings.

Wilson said that he did not have any knowledge of identifiable physician billing information. Specifically, he said: "I have never seen a piece of paper with a doctor's name and individual billing." When asked whether he had ever requested any identifiable billing information about individual doctors in the province, he replied: "No." Wilson was asked if he had ever requested that James, or anyone else at the Ministry, obtain information about Hughes, to which he replied: "No." When asked if he had ever asked the ADM/General Manager of OHIP, or anyone else at the Ministry, for detailed billing information about individual doctors in this province, he again replied: "No."

We were also advised by the Deputy Minister and the ADM/General Manager of OHIP that in order for another division within the Ministry to access information from the HID, they first had to obtain the permission of the Deputy Minister or ADM/General Manager of OHIP. The only exception was if a division had been granted a "standing authorization" to access such information, based on a demonstrated business need; only four such authorizations have ever been issued. We were told that no authorization of this nature (to access physician billing information) existed for the Minister's Office; a number of interviewees confirmed this point.

We were advised by the Deputy Minister and ADM/General Manager of OHIP that if the Minister's Office needed any OHIP-related information for the purpose of preparing House notes or answering questions from MPPs, it would be requested through the ADM/General Manager of OHIP, with a copy of the request to the Deputy Minister's Office. The Minister's staff confirmed that this was the practice they followed. The staff of the Ministry's HID (located in Kingston) indicated that no one in the Minister's Office had online access to any health insurance information. This was confirmed by the staff of the Minister's Office and others interviewed.

As noted earlier, a review of the general information practices of the Ministry's HID, with respect to physicians' billing information, is being completed separately.

Summary of Conclusions

- James disclosed to Coutts either that Hughes was “the” top biller or “one of the” top billers to OHIP.
- The information in question was “personal information” as defined in section 2(1) of the *Act*.
- The disclosure of Hughes’ personal information was not in compliance with section 42 of the *Act*.
- No document ranking identifiable physicians by their OHIP billing amounts was found to exist in the Ministry.
- James did not have access to identifiable physician billing information.
- James disclosed Hughes’ personal information on his own initiative without the knowledge of, or at the request of, Wilson, other Minister’s Office or Ministry staff.

Recommendations

I recommend that the Ministry take additional steps to ensure that all staff exercise proper discretion and care with respect to the disclosure of personal information, in compliance with section 42 of the *Act*. Among other things, the Ministry should conduct periodic refresher courses to heighten awareness of privacy-related issues, or periodically issue reminder memoranda concerning the appropriate use and disclosure of sensitive personal information. My office would be pleased to assist in developing such a program.

Within six months of receiving this report, the Ministry should provide the Office of the Information and Privacy Commissioner with proof of compliance with this recommendation.

Postscript

From time to time I take the opportunity to comment more generally on the right of privacy. The following comments are of that nature. They are not directed to the Ministry of Health or, for that matter, any other specific government organization. In fact, during the course of interviews with Ministry staff, I was impressed by the high level of awareness and concern for the protection of personal information which exists in the Ministry.

In my view, the circumstances from which this report arose reflect the ultimate fragility of the protection of personal information held by government organizations. They also point to a basic truth about privacy — privacy once lost cannot be regained. Once personal information is “out the door” there is simply no way of eliminating knowledge of it.

I believe it is essential for government organizations to be guided by the premise that they are only the stewards of the personal information entrusted to them. The information belongs to the person to whom it relates. Understandably, governments require personal information in order to perform the various services they provide. However, the fact that the personal information has been provided to them does not mystically transform the information into the “government’s” information. Indeed, this is the essence of the privacy rules contained in Ontario’s two freedom of information and protection of privacy acts.

In my opinion, privacy laws are only part of the answer to privacy protection. As with any law, they cannot provide an absolute guarantee. What is essential is that governments understand and respect the immense level of trust citizens place in government when they relinquish any detail of their personal information. They are disclosing details about their relationships, their finances and their health, after which point they have no control over what happens to the information. This lack of control is even more pronounced in an era of digitized information.

At its root, I feel the best privacy protection is grounded in attitude — an attitude which should flow naturally from an appreciation of the nature of the relationship between government and members of the public. Governments exist at the pleasure of the governed — and privacy protection is an essential part of the relationship.

Appendix A — The *Globe and Mail* article, December 7, 1996

Minister's aide out of job after using OHIP billing data

Brett James identified MD as province's highest paid

BY JANE COUTTS
Health Policy Reporter

TORONTO — A key aide to Health Minister Jim Wilson left his job yesterday after he revealed confidential information about a leader of Ontario's doctors to *The Globe and Mail*.

Mr. Wilson's executive assistant said Brett James is "no longer in the employ of the minister" after telling a *Globe* reporter to ask William Hughes, vice-chairman of the Specialist Coalition of Ontario, about his billings to the Ontario Health Insurance Plan.

He said Dr. Hughes, a cardiologist in Peterborough, was Ontario's "No. 1" biller, charging more to OHIP than any other doctor in the province.

The departure of Mr. James reflects the deli-

cate state of relations between the Health Ministry and the province's doctors. News of Mr. James's revelation about Dr. Hughes might have disrupted negotiations over doctors' pay when many expect a deal to be reached this weekend.

"We wouldn't want his conduct or behaviour to be seen as reflective of our view of physicians in any way, because it's not," said Catherine Steele, Mr. Wilson's executive assistant.

Mr. James revealed the information in a phone call after a news conference, which was organized by the specialist coalition and led by Dr. Hughes on Thursday. At the conference, the coalition called for a province-wide shut-down of specialists' offices this coming Friday.

Please see *Aide's* / A11

The Globe and Mail, Saturday, December 7, 1996

Aide's revelation comes during delicate negotiations

♦ From Page A1

Asked yesterday how he knew Dr. Hughes was the top biller in the province, Mr. James said: "I guess I saw a piece of paper."

He added, "My whole problem, quite frankly, . . . is I love that little piece of information, but there's only one place it could come from." Asked if he meant from OHIP's files, he said yes.

He denied, however, that Mr. Wilson was gathering OHIP information on his political opponents.

"No. It was for entirely different reasons that I saw that piece of paper months ago, but I hear what you're saying," he said, adding that "it's fair enough you want to make that argument. I never should have said it to you."

Sarah Jones, a spokeswoman for Ontario's Privacy Commissioner, said she could not comment on the details of what Mr. James told The Globe, because there might at some point be a complaint to her office on the matter.

Under Order 54 of the Information and Privacy Commission, releasing information on the billings of a specific doctor is considered to be a violation of an individual's privacy.

Interviewed by phone in his Peterborough office, Dr. Hughes said he was astonished and enraged by what Mr. James had said.

"This [health-care] debate is of critical importance to the people of Ontario and why disclosing things about me personally would enter into it, I just find it astounding," he said.

Dr. Hughes said he does not know whether the revelation of information

on his billings might affect the work of the coalition. "Obviously the Specialist Coalition is going to have to look very seriously at this issue and is going to have to determine what role, if any, I will play in the future," he said.

He added that it is possible to see his high billings as proof that he believes in the message he is trying to spread: As a doctor in an underserved area, he is exempt from the thresholds the province has imposed on high-billing doctors, and, despite the 10-per-cent clawback, he is still a high earner. Because of this, the monetary issues at the heart of the battle between the OMA and the government do not affect him.

He said his motivation is entirely to draw attention to what he considers underfinancing of the health-care system.

"This is what I believe, and that's why I am doing it," he said, "because from a personal standpoint this is nothing but a drain on me physically, emotionally and financially."

Dr. Hughes would not discuss any details of his billings, but he said he does not know if he bills OHIP more than any other doctor in the province. "They don't publish a hit parade, so the answer is I don't know, nor could I possibly know that. The only people who would know that would be in the ministry," he said.

Dr. Hughes's billings are high in part because he is one of only three heart doctors in Peterborough — an area that is officially considered underserved for cardiology.

Appendix B — Letter from the Secretary of Cabinet, December 9, 1996

Secretary of
the Cabinet
Secrétaire du
Conseil des ministres

The Cabinet Office
Bureau du Conseil
des ministres

99 Wellesley Street West
Room 4340, Whitney Block
Toronto, Ontario
M7A 1A1

99, rue Wellesley ouest
Bureau 4340, Édifice Whitney
Toronto (Ontario)
M7A 1A1

Telephone: (416) 325-7641
Fax: (416) 314-8980

Téléphone : (416) 325-7641
Télécopieur : (416) 314-8980

December 9, 1996

Mr. Tom Wright, Commissioner
Information and Privacy Commissioner
Suite 1700, 80 Bloor Street West
Toronto, Ontario
M5S 2V1

Dear Mr. Wright:

I have been instructed by the Minister of Health, in light of concerns that a former member of his staff may have had access to confidential physician billing information, to request that your office investigate this particular incident as well as the practices of the Health Insurance Division with respect to its disclosure of such information.

I would ask that you make arrangements with the appropriate parties in the Ministry of Health to begin this investigation and report back to me as soon as possible.

In the past, your reports and comments have assisted the Ministry's understanding and compliance with the Freedom of information and Protection of Privacy Act. We welcome your comments and recommendations regarding this matter.

Yours sincerely,



Rita Burak
Secretary of the Cabinet

copy: The Honourable Jim Wilson
Minister of Health

Margaret Mottershead
Deputy Minister of Health

Dr. Ann Cavoukian
Assistant Commissioner - Privacy



Appendix C — Application for Registration to SRI; Extension of Enrollment to SRI

APPLICATION FOR REGISTRATION TO THE
SPECIALIST RETENTION INITIATIVE UNDER THE
MINISTRY OF HEALTH UNDERSERVED AREA PROGRAM
1995 - 1996

THE REGISTRATION FORM MUST BE TYPED AND COMPLETED IN FULL

A HANDWRITTEN OR INCOMPLETE REGISTRATION FORM WILL BE RETURNED AND WILL NOT BE CONSIDERED

Last Name: _____ First Name: _____

Specialty: _____ OHIP Billing Number: _____

Practice Address:

Street: _____

City/Town: _____

County or District/Regional Municipality: _____

Province: _____ Postal Code: _____

Telephone: _____ Fax: _____

(Please attach a separate sheet if more than one practice location)

Mailing Address (if different from above)

Street: _____

City/Town: _____

County or District/Regional Municipality: _____

Province: _____ Postal Code: _____

Telephone: _____ Fax: _____

.../2

-2-

Do you have an OHIP UAP Billing Number? Yes No

UAP Billing Number: _____

Do you currently have an arrangement with UAP? Yes No

If yes, what is the nature of this arrangement?

Incentive Grant

Travelling Specialty Clinics

Specialty Locums

Signature

Date

Please return completed form to the:

Underserviced Area Program
Northern Health Programs and Planning Branch
159 Cedar Street, 4th Floor
Sudbury, Ontario
P3E 6A5

Attention: Mr. Max Battistoni

By signing this registration form, I am applying for admission to the Ministry of Health Underserviced Area Program, Specialist Retention Initiative (SRI). I believe that my eligible billings will exceed the threshold amount for the 1996-1997 and that I meet the criteria for admission to the SRI.

I understand that the information collected on the registration form will be used to assist the Ministry of Health to process my registration for the SRI. In addition, for the purpose of determining my initial and continuing eligibility, I consent to the Ministry's use of information collected during all assessments, or registrations (including on-site practice assessments) by any officer, employee or agent of the Ministry who requires such information in order to perform his or her duties under SRI.

I further understand that by signing this agreement to participate in the SRI, my name will be included in the Ministry's list of specialists admitted to the SRI and that this list may be made available to the public.

Personal information contained on this form is collected by virtue of it being necessary for the proper administration of a lawfully authorized pursuant to subsection 6(2) of the Ministry of Health Act R.S.O. 1990c.M26. The purpose of the collection is to assess for the Specialists Retention Initiative (SRI) under the Underserviced Area Program (UAP).

March 1996

**EXTENSION OF ENROLLMENT
SPECIALIST RETENTION INITIATIVE UNDER THE
MINISTRY OF HEALTH UNDERSERVICED AREA PROGRAM
1995 - 1996**

THE REGISTRATION FORM MUST BE TYPED AND COMPLETED IN FULL

A HANDWRITTEN OR INCOMPLETE REGISTRATION FORM WILL BE RETURNED AND WILL NOT BE CONSIDERED

Last Name: _____ First Name: _____

Specialty: _____ OHIP Billing Number: _____

Practice Address:

Street: _____

City/Town: _____

County or District/Regional Municipality: _____

Province: _____ Postal Code: _____

Telephone: _____ Fax: _____

(Please attach a separate sheet if more than one practice location)

Mailing Address (if different from above)

Street: _____

City/Town: _____

County or District/Regional Municipality: _____

Province: _____ Postal Code: _____

Telephone: _____ Fax: _____

-2-

Do you have an OHIP UAP Billing Number? Yes No

UAP Billing Number: _____

Do you currently have an arrangement with UAP? Yes No

If yes, what is the nature of this arrangement?

Incentive Grant

Travelling Specialty Clinics

Specialty Locums

Signature

Date

Please return completed form to the:

Underserviced Area Program
Northern Health Programs and Planning Branch
159 Cedar Street, 4th Floor
Sudbury, Ontario
P3E 6A5

Attention: Mr. Max Battistoni

By signing this registration form, I am applying for admission to the Ministry of Health Underserviced Area Program, Specialist Retention Initiative (SRI). I believe that my eligible billings will exceed the threshold amount for the 1996-1997 and that I continue to meet the criteria for admission to the SRI.

I understand that the information collected on the registration form will be used to assist the Ministry of Health to process my registration for the SRI. In addition, for the purpose of determining my initial and continuing eligibility, I consent to the Ministry's use of information collected during all assessments, or registrations (including on-site practice assessments) by any officer, employee or agent of the Ministry who requires such information in order to perform his or her duties under SRI.

I further understand that by signing this agreement to participate in the SRI, my name will be included in the Ministry's list of specialists admitted to the SRI and that this list may be made available to the public.

Personal information contained on this form is collected by virtue of it being necessary for the proper administration of a lawfully authorized pursuant to subsection 6(2) of the Ministry of Health Act R.S.O. 1990c.M26. The purpose of the collection is to assess for the Specialists Retention Initiative (SRI) under the Underserviced Area Program (UAP).

March 1996

Appendix D — Agreement to Participate in SRI

**AGREEMENT TO PARTICIPATE IN THE
MINISTRY OF HEALTH
UNDERSERVICED AREA PROGRAM
SPECIALIST RETENTION INITIATIVE
1995-1996**

1. The Specialist Retention Initiative (SRI), established by the Ministry of Health, is administered by the Ministry's Underserviced Area Program (UAP).
2. All insured services rendered by a specialist who agrees to the terms set out in clause 3 in order to participate in the SRI are services rendered under the UAP.
3. The following terms apply to the SRI:
 - (a) Subject to subclause (b), a specialist shall continue to provide insured services in the same certified specialty, in the same locale and to the patient population in the same geographic area, as the specialist was providing on the date indicated on the specialist's SRI application.
 - (b)
 - (i) Where a specialist changes or wishes to change his or her certified specialty, the locale of his or her practice, or the geographic area served, as set out in the specialist's SRI application and referred to in subclause (a), the specialist shall be permitted to continue to participate in the SRI subsequent to any change only where such continued participation has been approved in writing by the manager of the UAP.
 - (ii) Such approval may be made to operate retrospectively as well as prospectively and may be subject to any conditions.
 - (c)
 - (i) Where a specialist changes specialty, locale, or geographic area serviced, without securing the approval as provided in subclause (b), the specialist's participation in the SRI shall be deemed to have terminated as of the date of the change.
 - (ii) Participation by a specialist in the SRI may be terminated by the Director of the UAP on written notice sent by registered mail to the specialist's last known address, and the date of termination shall be the fifteenth day after the notice is mailed.

.../2

- 2 -

- (iii) Where a specialist's participation in the SRI has been terminated under subclause (c)(i) or (ii),
 - a. the monies or other benefits paid to or received by the specialist solely as a result of participation in the SRI, for insured services rendered before the date of termination, shall not be repayable to the Crown in right of Ontario,
 - b. the monies or other benefits that are due or owing to the specialist solely as a result of participation in the SRI for insured services rendered before the date of termination, shall be recoverable by the specialist and be payable to the specialist by the Crown in right of Ontario, and
 - c. no further monies or other benefits shall be payable or shall accrue to the specialist under the SRI after the date of termination.
- (d) Each specialist shall make all reasonable efforts to assist in and encourage the recruitment of other specialists to underserved areas in Ontario, including hosting specialists visiting their region on assessment tours.
- (e) Acceptance of and participation by a specialist in the SRI does not constitute or give rise to a contract of employment or contract of service between the specialist and the Crown in right of Ontario.
- (f) Except where the participation of a specialist in the SRI has been terminated under subclause (c)(i) or (ii), the SRI terminates on March 31, 1997.
- (g) The name of each specialist participating in the SRI shall be included in the Ministry's list of SRI specialists, and such list shall be made available to the public by the Ministry.

I, _____, AGREE TO THE TERMS SET OUT IN CLAUSE 3 IN ORDER TO PARTICIPATE IN THE SRI

(Signature of Specialist)

WITNESS _____

DATE _____

Appendix E — Ministry FIPP Report, July 19, 1996

DATE: July 19, 1996

SECTION 1

THE FOLLOWING REQUESTS WERE RECEIVED AND OPENED AS OF JULY 19, 1996. PLEASE NOTE THAT THEY ARE DUE FOR DISCLOSURE IN 30 CALENDAR DAYS:

FILE NO.	SOURCE	DESCRIPTION
96265-MOH	Individual	OHIP Claims History.
96266-MOH	Individual	OHIP Claims History.

SECTION 2

IN THE FOLLOWING REQUESTS, A DECISION WAS ISSUED ALONG WITH A FEE. UPON RECEIPT OF THE FEE, THE RECORDS WILL BE DISCLOSED. THIS SECTION ALSO INCLUDES THIRD PARTY REQUESTS WHERE THE AFFECTED PARTIES HAVE A 30 DAY TIMEFRAME IN WHICH TO APPEAL THE DECISION BEFORE THE RECORDS ARE DISCLOSED:

-- NIL --

SECTION 3

THE FOLLOWING REQUESTS WERE COMPLETED AS OF JULY 19, 1996 AND HAD INFORMATION DISCLOSED, IN WHOLE OR IN PART:

96133-MOH	MEDIA	The names and earnings of all doctors in Ontario exempt from the Ontario Health Insurance Plan \$400,000 cap. -- PARTIAL DISCLOSURE. SENT OUT BY OVERNIGHT COURIER.
-----------	-------	---

If you require further information, please contact this office at 327-7040.

Appendix F — Section 42 of the Act

42. An institution shall not disclose personal information in its custody or under its control except,

- (a) in accordance with Part II;
- (b) where the person to whom the information relates has identified that information in particular and consented to its disclosure;
- (c) for the purpose for which it was obtained or compiled or for a consistent purpose;
- (d) where disclosure is made to an officer or employee of the institution who needs the record in the performance of his or her duties and where disclosure is necessary and proper in the discharge of the institution's functions;
- (e) for the purpose of complying with an Act of the Legislature or an Act of Parliament or a treaty, agreement or arrangement thereunder;
- (f) where disclosure is by a law enforcement institution,
 - (i) to a law enforcement agency in a foreign country under an arrangement, a written agreement or treaty or legislative authority, or
 - (ii) to another law enforcement agency in Canada;
- (g) where disclosure is to an institution or a law enforcement agency in Canada to aid an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result;
- (h) in compelling circumstances affecting the health or safety of an individual if upon disclosure notification thereof is mailed to the last known address of the individual to whom the information relates;
- (i) in compassionate circumstances, to facilitate contact with the next of kin or a friend of an individual who is injured, ill or deceased;
- (j) to a member of the Legislative Assembly who has been authorized by a constituent to whom the information relates to make an inquiry on the constituent's behalf or, where the constituent is incapacitated, has been authorized by the next of kin or legal representative of the constituent;

- (k) to a member of the bargaining agent who has been authorized by an employee to whom the information relates to make an inquiry on the employee's behalf or, where the employee is incapacitated, has been authorized by the next-of-kin or legal representative of the employee;
- (l) to the responsible minister;
- (m) to the Information and Privacy Commissioner; and
- (n) to the Government of Canada in order to facilitate the auditing of shared cost programs.

R.S.O. 1990, c.F.31, s. 42

Appendix G — Oath of Office and Secrecy



OATH OF OFFICE AND SECRECY

I,, do swear (or solemnly affirm) that I will faithfully discharge my duties as a member of the Minister's staff and will observe and comply with the laws of Canada and Ontario, and, except as I may be legally authorized or required, I will not disclose or give to any person any information or document that comes to my knowledge or into my possession by reason of my being a member of the Minister's staff, nor will I use any such information or document for my personal benefit or gain or for the personal benefit or gain of any member of my family.

So help me God. (I affirm)

Date

Signature

Date

Witness (Designee)

Public Service Act - Section 10 (3)

Ministers' Staffing Unit - June /95

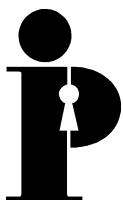
Appendix H — List of Individuals Interviewed in the Order Interviewed

Ministry of Health

- Brett James, Special Assistant – Communications, to the Minister of Health
- Jim Wilson, Minister of Health
- Margaret Mottershead, Deputy Minister
- Catherine Steele, Executive Assistant to the Minister of Health
- Mary Catherine Lindberg, Assistant Deputy Minister, Health Insurance and Related Programs/
General Manager of OHIP
- Coralie Flory, Office Manager/Assistant to the Minister’s Executive Assistant
- Bill Hawkins, Special Assistant – Legislative, to the Minister of Health
- Mona Wong, Co-ordinator, Freedom of Information and Protection of Privacy Office
- Brian Miller, Program Adviser, Freedom of Information and Protection of Privacy Office
- David Douglas, Program Adviser, Freedom of Information and Protection of Privacy Office
- Tariq Asmi, Special Assistant – Policy, to the Minister of Health
- Marsha Barnes, Director, Provider Services Branch (PSB)
- Gilbert Sharpe, Director, Legal Services Branch
- Lisa Graham, Acting Analyst (Freedom of Information & Privacy) (PSB)
- Susan Fitzpatrick, Acting Manager, Policy Development, Planning and Research (PSB)
- Gary Ollson, Manager and Medical Consultant, Monitoring and Control (PSB)
- Dave Ross, Communications Officer, Issues and Briefing, Communications and Information Branch

Non-Ministry

- Dr. William Hughes



**Information and Privacy
Commissioner/Ontario**

2 Bloor Street East
Suite 1400
Toronto, Ontario
M4W 1A8

416-326-3333
1-800-387-0073
Fax: 416-325-9195
TTY (Teletypewriter): 416-325-7539
Website: www.ipc.on.ca