

Federal Court



Cour fédérale

Unrevised certified translation

Date: 20100609

Docket: T-474-09

Citation: 2010 FC 623

Ottawa, Ontario, June 9, 2010

PRESENT: The Honourable Madame Justice Johanne Gauthier

BETWEEN:

JACQUES NAULT

Applicant

and

**THE MINISTER OF PUBLIC WORKS AND
GOVERNMENT SERVICES CANADA**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] Mr. Nault, who is representing himself, is asking the Court to review the legality of the decision to refuse to disclose certain information to him under the *Access to Information Act*, R.S.C. 1985, c. A-1 (Act).

[2] This application raises an issue that has not been reviewed to date, namely, whether the employment history of federal public servants prior to their entry into the Public Service is in the public domain by virtue of the exception in paragraph 3(j) of the *Privacy Act*, R.S.C. 1985, c. P-21 (PA).

[3] Notwithstanding the applicant's eloquent and well-developed arguments, the Court finds that the application must be dismissed, for the reasons below.

Background

[4] On September 12, 2005, Mr. Nault asked the Department of Public Works and Government Services Canada (PWGSC) for access to the following information: the documents (résumé, letter, proof of education) submitted by each of the 61 candidates hired further to four competitions in which they had participated for the positions of financial systems analyst (level FI-01 and FI-02) and financial analysts (level FI-01 and FI-02). The competitions in question had been posted as part of the project to implement the government's Financial Information Strategy.

[5] The competition poster, published in the Saturday, March 25, 2000 issue of *La Presse*, indicated that the candidates had to meet the following requirements to be eligible for these positions:

[TRANSLATION]

...undergraduate degree from a recognized university with an acceptable specialization in accounting, finance, business administration, commerce or another speciality relevant to the position to be staffed and experience in a field related to the positions in the Financial Management Group OR eligibility for a recognized professional accounting designation. Experience in the field of financial administration and in the use of microcomputers and two or more related software packages, knowledge of accounting principles and practices and of financial administration...

[6] On June 19, 2006, the respondent disclosed to Mr. Nault documents numbered from 001 to 654, from which various parts had been severed. According to the respondent, most of the documents requested by Mr. Nault were subject to the exception of subsection 19(1) of the Act, which provides that the respondent **shall** refuse to disclose any record that contains personal information as defined in section 3 (specifically paragraph 3(b)) of the PA.

[7] However, according to the respondent, the information concerning the positions and functions of the 61 candidates within government institutions was not severed pursuant to paragraph 3(j) of the PA. Moreover, it appears that the respondent tried to obtain consent to the disclosures from the individuals concerned. Of the 57 persons finally located, eight consented to a disclosure (one to a complete disclosure and seven to a partial disclosure). This information was therefore included in the information sent in June 2006.

[8] On October 18, 2006, Mr. Nault filed a complaint with the Office of the Information Commissioner of Canada (Office) concerning this partial disclosure of documents. He argued that the severance of documents was unreasonable. Among other things, he criticized the fact that all relevant information had been removed from the educational certificates and resumé. On February 9, 2009, the Office reported to the applicant on the results of its investigation. According to the Office, the personal information severed from the documents provided to the applicant was not in the public domain and the complaint was dismissed as unfounded.

[9] On March 30, 2009, Mr. Nault filed his notice of application for judicial review under section 41 of the Act.

[10] In his memorandum, the applicant referred to various related facts that he gave as reasons for his request for access to information, as well as various communications with the Office. Several of these allegations have been denied by the respondent, who is asking the Court not to take them into account because they are not supported by the evidence and he considers them to be gratuitous.

[11] At the hearing, the parties recognized that, as the Supreme Court of Canada clearly indicated in *Canada (Information Commissioner) v. Canada (Commissioner of the Royal Canadian Mounted Police)*, 2003 SCC 8, [2003] 1 S.C.R. 66 (*Re RCMP*), the purpose or motive of the information request is wholly irrelevant. The decision must be made without regard for the intention of the person making the request, but rather by considering only the nature of the requested information (see paras. 32 and 33).

[12] There is therefore nothing more to add in this respect except to specify that the principles and provisions in question here are not the same as those that would be relevant if Mr. Nault had asked for this information as part of a complaint about the legality of the staffing process.¹

¹ See in this regard *Forsch v. Canada (Canadian Food Inspection Agency)*, 2004 FC 513, 2004 F.C.J. No. 619 (*Forsch*), which indicates that, in such a case, the principles of procedural fairness and other provisions such as paragraph 8(2)(a) of the PA may apply. In the case at bar, Mr. Nault did indeed file a complaint with the Public Service Commission of Canada, arguing that he had reasonable grounds to believe that the merit principle had been breached and that he had not been treated fairly and equitably. After an investigation, this complaint was dismissed, as was the application for judicial review of this decision: *Nault v. Canada (Public Service Commission)*, 2002 FCT 1297, 121 A.C.W.S. (3d) 875 aff'd, 2004 FCA 350, 139 A.C.W.S. (3d). However, it appears that, for various reasons, neither the Commission nor the Court

had the opportunity to review the initial decision to reject Mr. Nault's candidacy in light of the document now found at page 531 of the applicant's record.

Analysis

[13] It is sufficient here to reproduce paragraphs 3(b) and 3(j) of the PA, which are central to the issue, because both parties have limited their arguments to a single question, namely, whether the information severed must be disclosed under paragraph 3(j) of the PA. The other relevant legislative provisions are reproduced in Annex I.

3. In this Act,

“personal information”
« renseignements personnels »

“personal information” means information about an identifiable individual that is recorded in any form including, without restricting the generality of the foregoing,
[...]

(b) information relating to the education or the medical, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,
[...]

but, for the purposes of sections 7, 8 and 26 and section 19 of the *Access to Information Act*, does not include
[...]

(j) information about an individual who is or was an officer or employee of a government institution that relates to the position or functions of the individual including,

(i) the fact that the

3. Les définitions qui suivent s’appliquent à la présente loi.

« renseignements personnels »
“personal information”
« renseignements personnels » Les

renseignements, quels que soient leur forme et leur support, concernant un individu identifiable, notamment :
[...]

b) les renseignements relatifs à son éducation, à son dossier médical, à son casier judiciaire, à ses antécédents professionnels ou à des opérations financières auxquelles il a participé;
[...]

toutefois, il demeure entendu que, pour l’application des articles 7, 8 et 26, et de l’article 19 de la *Loi sur l’accès à l’information*, les renseignements personnels ne comprennent pas les renseignements concernant :
[...]

j) un cadre ou employé, actuel ou ancien, d’une institution fédérale et portant sur son poste ou ses fonctions, notamment :

(i) le fait même qu’il est ou

individual is or was an officer or employee of the government institution,
(ii) the title, business address and telephone number of the individual,
(iii) the classification, salary range and responsibilities of the position held by the individual,
(iv) the name of the individual on a document prepared by the individual in the course of employment, and
(v) the personal opinions or views of the individual given in the course of employment,

a été employé par l'institution,
(ii) son titre et les adresse et numéro de téléphone de son lieu de travail,
(iii) la classification, l'éventail des salaires et les attributions de son poste,
(iv) son nom lorsque celui-ci figure sur un document qu'il a établi au cours de son emploi,
(v) les idées et opinions personnelles qu'il a exprimées au cours de son emploi;

[14] The applicant did not make any specific submissions regarding the standard of review.

However, he specified that the Court has broad powers of review. In *Re RCMP*, the Supreme Court conducted a pragmatic and functional analysis of an issue similar to the one before the Court in this application, but with regard to different information. It determined that the standard of review applicable to the decision of the head of the federal institution who refuses to disclose information under section 3 of the PA and subsection 19(1) of the Act is correctness. This same standard of review was applied in *Van Den Bergh v. Canada (National Research Council)*, 2003 FC 1116, 28 C.P.R. (4th) 257 at para. 4, *Brainhunter (Ottawa) Inc. c. Canada (A.G.)*, 2009 FC 1172, 356 F.T.R. 166 at para. 11. The respondent agrees that this is the standard applicable in this case.

[15] The parties agree that the information that Mr. Nault is asking to be disclosed is covered by the definition of “personal information” in paragraph 3(b) of the PA. In *Re RCMP*, the Supreme Court stated that this concept is defined broadly; it expressly includes information relating to the education and employment history of an identifiable individual. There is also no doubt that the expression “employment history” has its ordinary meaning and is broadly interpreted to include the list of positions previously held by an individual, places of employment, and the tasks performed (*Re RCMP*, paras. 23 and 25 and *Dagg v. Canada (Minister of Finance)*, [1997] 2 S.C.R. 403, [1997] S.C.J. No. 63 (QL) (*Dagg*) at paras. 68-69).

[16] The issue is therefore to determine whether the information requested concerns the position or tasks of an individual who is or was an officer or employee of a government institution. In this respect, the Supreme Court of Canada indicated the following in *Re RCMP*:

34 ...Section 3(j) applies only to an “individual who is or was an officer or employee of a government institution”, and only for the purposes of ss. 7, 8 and 26 and s. 19 of the *Access Act*. In contrast, s. 3(b) is of general application. Parliament has therefore chosen to give less protection to the privacy of federal employees when the information requested relates to their position or functions. It follows that if a federal institution has in its possession the employment history of an individual who has never worked for the federal government, that information remains confidential, whereas federal employees will see the information relating to their position and functions released. Section 3(b) therefore has a wider scope, as it applies to every “identifiable individual”, and not just individuals who are or were officers or employees of a government institution.

[17] In this case, the Supreme Court defined the scope of paragraph 3(j) of the PA and established that the word “position” is to be understood as including more than one position, even if

it is used in the singular. Moreover, this provision is not limited in time; it applies equally to past and current positions held by the employee of a government institution, which explains the respondent's decision to provide details regarding the positions held by the candidates in government institutions.

[18] However, the Supreme Court also indicated that, notwithstanding paragraph 3(j) of the PA, certain personal information of federal public servants always remains inaccessible to the public. It is therefore appropriate to reproduce at length certain findings of the Court concerning the scope of this provision:

35 Further, only information relating to the position or functions of the concerned federal employee or falling within one of the examples given is excluded from the definition of "personal information". A considerable amount of information that qualifies as "employment history" remains inaccessible, such as the evaluations and performance reviews of a federal employee, and notes taken during an interview. Indeed, those evaluations are not information about an officer or employee of a government institution that relates to the position or functions of the individual, but are linked instead to the competence of the employee to fulfil his task. Clearly, there are aspects of employment history that are not related to functions or past positions. Therefore, to accept that s. 3(j) authorizes the communication of information that relates to both current and past positions and functions of federal officers and employees, without regard to the formulation of the request, does not empty the definition of "employment history" of meaning. ...

38 As I explained above, the examples mentioned in s. 3(j) are not exhaustive. However, s. 3(j) does have a specified scope, as the information must be related to the position or functions held by a federal employee. For instance, in *Canada (Information Commissioner) v. Canada (Solicitor General)*, [1988] 3 F.C. 551 (T.D.), Jerome A.C.J. held that certain opinions expressed about the training, personality, experience or competence of individual employees did not fall under s. 3(j). Such information is not a direct

function of the individual's position — rather, it concerns the competence and characteristics of the employee. Section 3(j) should apply only when the information requested is sufficiently related to the general characteristics associated with the position or functions held by an officer or employee of a federal institution. As La Forest J. explained in *Dagg, supra*, at para. 95:

Generally speaking, information relating to the position, function or responsibilities of an individual will consist of the kind of information disclosed in a job description. It will comprise the terms and conditions associated with a particular position, including such information as qualifications, duties, responsibilities, hours of work and salary range.

Obviously, a request that relates to the past or present position of a federal employee is necessarily about an individual. Given that “personal information” is defined in s. 3 of the *Privacy Act* as information “about an identifiable individual”, and given that s. 3(j) is, after all, an exception to the manner in which “personal information” generally is treated, it follows that s. 3(j) must contemplate information about an individual. In my opinion, it is both artificial and unhelpful to attempt to distinguish between “information about the person” and “information about the position or functions”. Section 3(j) applies when the information — which is always linked to an individual — is directly related to the general characteristics associated with the position or functions held by an employee, without the objective or subjective nature of that information being determinative.

[19] Mr. Nault acknowledges that the information about the positions, experience and education of candidates before they entered the Public Service does not coincide with any of the subparagraphs of paragraph 3(j). He argues that, as the Supreme Court of Canada stated in *Re RCMP*, this list is not exhaustive. As far as he is concerned, there is absolutely no doubt that this information, which was essential to obtain a position in a government institution, necessarily relates to the position or functions of these candidates. In fact, any other interpretation would substantially

interfere with the purpose of this provision, which is to ensure that the state and its agents are held accountable to the general public (*Re RCMP*, paragraph 29 *in fine*).

[20] He contends that the general public's right to have access to this information in order to make sure that there has been no favouritism prevails over the right to privacy of federal public servants. According to him, Parliament clearly expressed its intention in this respect by enacting paragraph 3(j), which excludes all of this "personal information" from the application of sections 7, 8, **19** and 26 of the Act.

[21] It is obvious that in this case, as in other contexts involving subsection 19(1) of the Act, the two general principles stated above are in opposition. While the applicant is arguing the pre-eminence of the first, the respondent is instead relying on the second. However, the principles of interpretation applicable to the PA and the Act require that both statutes be read jointly (*Re RCMP*, paras. 21-22, *Dagg*, paras. 47, 48 and 55). Recently, the Supreme Court in *H.J. Heinz Co. of Canada Ltd. v. Canada (A.G)*, 2006 SCC 13, [2006] 1 S.C.R. 441 had the opportunity to reaffirm these principles (para. 25), but it recognized that special emphasis had to be given to the protection of personal information (paras. 26, 28, 29). It concluded the following at paragraph 31:

31 It is apparent from the scheme and legislative histories of the *Access Act* and the *Privacy Act* that the combined purpose of the two statutes is to strike a careful balance between privacy rights and the right of access to information. However, within this balanced scheme, the Acts afford greater protection to personal information. By imposing stringent restrictions on the disclosure of personal information, Parliament clearly intended that no violation of this aspect of the right to privacy should occur. For this reason, since the legislative scheme offers a right of review pursuant to s. 44, courts

should not resort to artifices to prevent efficient protection of personal information.

[22] After giving considerable thought to and properly assessing the information examined in *Re RCMP, Dagg and Canada (Information Commissioner) v. Canada (Solicitor General)*, [1988] 3 F.C. 551, [1988] F.C.J. No. 408 (F.C.) (QL), a Federal Court decision cited with approval by the Supreme Court of Canada in *Re RCMP* at paragraph 38,² the Court cannot conclude that the information to which this application pertains is information **relating to the position or functions of the candidates** hired under these four competitions. This information concerns their education, experience and skills prior to obtaining a position in a government institution. It also primarily concerns the persons themselves, even if these skills and personal suitability were assessed to ensure that these candidates had the skills otherwise required for these positions in the federal administration. As mentioned, the information regarding the general characteristics directly associated with these positions, including the qualifications required to obtain them, – as opposed to information on the candidates themselves – was disclosed to the applicant.

[23] The purpose of paragraph 3(j) is to ensure that the state and its agents are held accountable for their actions. In this case, there is no such action that was taken by the successful candidates. Similarly, if we instead examine the actions taken by the federal public servants responsible for administering the competitions, it becomes even more obvious that the information requested by Mr. Nault is not directly related to their position or functions and, consequently, would not be covered by the exception in paragraph 3(j). The candidates' files do not become public information

² See also the decision in *Rubin v. Clerk of the Privy Council (Can.)* (1993), 62 F.T.R. 287, 48 C.P.R. (3d) 337 (F.C.).

simply by virtue of the fact that they were analyzed or examined by a federal public servant as part of his or her functions. Any other conclusion would lead to an absurd result.³

[24] In coming to this conclusion, the Court also took into account the fact that Parliament did not refer to the expression “employment history” in the subparagraphs of paragraph 3(j) when it had the opportunity to do so, having used it expressly in paragraph 3(b). As the Supreme Court indicated, although the description of the subparagraphs of paragraph 3(j) is not exhaustive, it is limited by the expression “that relates to the position or functions”.

[25] The Court also carefully examined the decision of Justice Richard Mosley in *Forsch* before concluding that it was not a precedent in this case⁴ and that the principle of judicial comity did not apply.

[26] Before concluding, it should be noted that, in examining the file,⁵ the Court noticed that certain information concerning positions held in government institutions by certain candidates had not been fully disclosed, contrary to what the respondent has stated: see, for example, on page 000008, the reference to a position in Public Works and Government Services Canada which was severed, as were certain elements in the description of a position with Public Works and Government Services Canada on page 000313. It is therefore important that the respondent re-

³ Take the example of a public servant responsible for reviewing individual income tax returns.

⁴ See conclusion, para. 61.

⁵ It should be noted that the applicant received the information concerning the number(s) of the competition(s) for which the candidates applied since this information had not been severed.

examine the file to make sure that all the information that relates to positions in government institutions is, in fact, disclosed.

[27] As regards costs, considering the nature and novelty of the issue raised by this application and the circumstances of the case, the Court finds that each party should bear his own costs.

JUDGMENT

THE COURT ORDERS AND ADJUDGES that the application for judicial review is dismissed. The respondent shall review the information that has been severed in the file and make sure that all the information to be disclosed in accordance with these reasons will be disclosed to the applicant.

“Johanne Gauthier”

Judge

Certified true translation
Susan Deichert, LLB

ANNEX I

Access to Information Act, R.S.C. 1985, c. A-1

<p>Purpose</p> <p>2. (1) The purpose of this Act is to extend the present laws of Canada to provide a right of access to information in records under the control of a government institution in accordance with the principles that government information should be available to the public, that necessary exceptions to the right of access should be limited and specific and that decisions on the disclosure of government information should be reviewed independently of government.</p>	<p>Objet</p> <p>2. (1) La présente loi a pour objet d'élargir l'accès aux documents de l'administration fédérale en consacrant le principe du droit du public à leur communication, les exceptions indispensables à ce droit étant précises et limitées et les décisions quant à la communication étant susceptibles de recours indépendants du pouvoir exécutif.</p>
<p>Personal information</p> <p>19. (1) Subject to subsection (2), the head of a government institution shall refuse to disclose any record requested under this Act that contains personal information as defined in section 3 of the <i>Privacy Act</i>.</p> <p>Where disclosure authorized</p> <p>(2) The head of a government institution may disclose any record requested under this Act that contains personal information if</p> <p>(a) the individual to whom it relates consents to the disclosure;</p> <p>(b) the information is publicly available; or</p> <p>(c) the disclosure is in accordance</p>	<p>Renseignements personnels</p> <p>19. (1) Sous réserve du paragraphe (2), le responsable d'une institution fédérale est tenu de refuser la communication de documents contenant les renseignements personnels visés à l'article 3 de la <i>Loi sur la protection des renseignements personnels</i>.</p> <p>Cas où la divulgation est autorisée</p> <p>(2) Le responsable d'une institution fédérale peut donner communication de documents contenant des renseignements personnels dans les cas où :</p> <p>a) l'individu qu'ils concernent y consent;</p>

with section 8 of the *Privacy Act*.
1980-81-82-83, c. 111, Sch. I “19”

b) le public y a accès;
c) la communication est conforme
à l’article 8 de la *Loi sur la
protection des renseignements
personnels*.
1980-81-82-83, ch. 111, ann. I
« 19 ».

Review by Federal Court where
access refused

Révision par la Cour fédérale dans
les cas de refus de communication

41. Any individual who has
been refused access to personal
information requested under
subsection 12(1) may, if a
complaint has been made to the
Privacy Commissioner in respect
of the refusal, apply to the Court
for a review of the matter within
forty-five days after the time the
results of an investigation of the
complaint by the Privacy
Commissioner are reported to the
complainant under subsection
35(2) or within such further time
as the Court may, either before or
after the expiration of those forty-
five days, fix or allow.

1980-81-82-83, c. 111, Sch. II
“41”.

41. L’individu qui s’est vu
refuser communication de
renseignements personnels
demandés en vertu du paragraphe
12(1) et qui a déposé ou fait
déposer une plainte à ce sujet
devant le Commissaire à la
protection de la vie privée peut,
dans un délai de quarante-cinq
jours suivants le compte rendu du
Commissaire prévu au paragraphe
35(2), exercer un recours en
révision de la décision de refus
devant la Cour. La Cour peut,
avant ou après l’expiration du
délai, le proroger ou en autoriser la
prorogation.

1980-81-82-83, ch. 111, ann. II
« 41 ».

Burden of proof

Charge de la preuve

48. In any proceedings before
the Court arising from an
application under section 41 or 42,
the burden of establishing that the
head of a government institution is
authorized to refuse to disclose a
record requested under this Act or
a part thereof shall be on the
government institution concerned.

48. Dans les procédures
découlant des recours prévus aux
articles 41 ou 42, la charge
d’établir le bien-fondé du refus de
communication totale ou partielle
d’un document incombe à
l’institution fédérale concernée.

1980-81-82-83, ch. 111, ann. I
« 48 ».

Privacy Act, R.S.C. 1985, c. P-21

Purpose

2. The purpose of this Act is to extend the present laws of Canada that protect the privacy of individuals with respect to personal information about themselves held by a government institution and that provide individuals with a right of access to that information.

3. In this Act,
“personal information”

« *renseignements personnels* »

“personal information” means information about an identifiable individual that is recorded in any form including, without restricting the generality of the foregoing,

(a) information relating to the race, national or ethnic origin, colour, religion, age or marital status of the individual,

(b) information relating to the education or the medical, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,

(c) any identifying number, symbol or other particular assigned to the individual,

(d) the address, fingerprints or blood type of the individual,

(e) the personal opinions or views of the individual except where they are about another individual or about a proposal for a grant, an award or a prize to be made to another individual by a government institution or a part of a government institution specified

Objet

2. La présente loi a pour objet de compléter la législation canadienne en matière de protection des renseignements personnels relevant des institutions fédérales et de droit d'accès des individus aux renseignements personnels qui les concernent.

3. Les définitions qui suivent s'appliquent à la présente loi.

« renseignements personnels »
“*personal information*”

« renseignements personnels » Les renseignements, quels que soient leur forme et leur support, concernant un individu identifiable, notamment :

a) les renseignements relatifs à sa race, à son origine nationale ou ethnique, à sa couleur, à sa religion, à son âge ou à sa situation de famille;

b) les renseignements relatifs à son éducation, à son dossier médical, à son casier judiciaire, à ses antécédents professionnels ou à des opérations financières auxquelles il a participé;

c) tout numéro ou symbole, ou toute autre indication identificatrice, qui lui est propre;

d) son adresse, ses empreintes digitales ou son groupe sanguin;

e) ses opinions ou ses idées personnelles, à l'exclusion de celles qui portent sur un autre individu ou sur une proposition de subvention, de récompense ou de prix à octroyer à un autre individu

in the regulations,
 (f) correspondence sent to a government institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to such correspondence that would reveal the contents of the original correspondence,

(g) the views or opinions of another individual about the individual,

(h) the views or opinions of another individual about a proposal for a grant, an award or a prize to be made to the individual by an institution or a part of an institution referred to in paragraph (e), but excluding the name of the other individual where it appears with the views or opinions of the other individual, and

(i) the name of the individual where it appears with other personal information relating to the individual or where the disclosure of the name itself would reveal information about the individual,

but, for the purposes of sections 7, 8 and 26 and section 19 of the *Access to Information Act*, does not include

(j) information about an individual who is or was an officer or employee of a government institution that relates to the position or functions of the individual including,

- (i) the fact that the individual is or was an officer or employee of the government institution,
- (ii) the title, business address and telephone number of the individual,
- (iii) the classification, salary range and

par une institution fédérale, ou subdivision de celle-ci visée par règlement;

f) toute correspondance de nature, implicitement ou explicitement, privée ou confidentielle envoyée par lui à une institution fédérale, ainsi que les réponses de l'institution dans la mesure où elles révèlent le contenu de la correspondance de l'expéditeur;

g) les idées ou opinions d'autrui sur lui;

h) les idées ou opinions d'un autre individu qui portent sur une proposition de subvention, de récompense ou de prix à lui octroyer par une institution, ou subdivision de celle-ci, visée à l'alinéa e), à l'exclusion du nom de cet autre individu si ce nom est mentionné avec les idées ou opinions;

i) son nom lorsque celui-ci est mentionné avec d'autres renseignements personnels le concernant ou lorsque la seule divulgation du nom révélerait des renseignements à son sujet;

toutefois, il demeure entendu que, pour l'application des articles 7, 8 et 26, et de l'article 19 de la *Loi sur l'accès à l'information*, les renseignements personnels ne comprennent pas les renseignements concernant :

j) un cadre ou employé, actuel ou ancien, d'une institution fédérale et portant sur son poste ou ses fonctions, notamment :

- (i) le fait même qu'il est ou a été employé par l'institution,
- (ii) son titre et les adresse et numéro de téléphone de son lieu de travail,
- (iii) la classification,

responsibilities of the position held by the individual,
 (iv) the name of the individual on a document prepared by the individual in the course of employment, and
 (v) the personal opinions or views of the individual given in the course of employment,

(k) information about an individual who is or was performing services under contract for a government institution that relates to the services performed, including the terms of the contract, the name of the individual and the opinions or views of the individual given in the course of the performance of those services,

(l) information relating to any discretionary benefit of a financial nature, including the granting of a licence or permit, conferred on an individual, including the name of the individual and the exact nature of the benefit, and

(m) information about an individual who has been dead for more than twenty years;

R.S., 1985, c. P-21, s. 3; 1992, c. 1, s. 144(F), c. 21, s. 34; 2002, c. 8, s. 183; 2006, c. 9, s. 181.

Disclosure of personal information

8. (1) Personal information under the control of a government institution shall not, without the consent of the individual to whom it relates, be disclosed by the institution except in accordance with this section.

Where personal information may

l'éventail des salaires et les attributions de son poste,
 (iv) son nom lorsque celui-ci figure sur un document qu'il a établi au cours de son emploi,
 (v) les idées et opinions personnelles qu'il a exprimées au cours de son emploi;

k) un individu qui, au titre d'un contrat, assure ou a assuré la prestation de services à une institution fédérale et portant sur la nature de la prestation, notamment les conditions du contrat, le nom de l'individu ainsi que les idées et opinions personnelles qu'il a exprimées au cours de la prestation;

l) des avantages financiers facultatifs, notamment la délivrance d'un permis ou d'une licence accordés à un individu, y compris le nom de celui-ci et la nature précise de ces avantages;
 m) un individu décédé depuis plus de vingt ans.

L.R. (1985), ch. P-21, art. 3; 1992, ch. 1, art. 144(F), ch. 21, art. 34; 2002, ch. 8, art. 183; 2006, ch. 9, art. 181.

Communication des renseignements personnels

8. (1) Les renseignements personnels qui relèvent d'une institution fédérale ne peuvent être communiqués, à défaut du consentement de l'individu qu'ils concernent, que conformément au présent article.

be disclosed

(2) Subject to any other Act of Parliament, personal information under the control of a government institution may be disclosed

[...]

(m) for any purpose where, in the opinion of the head of the institution,

- (i) the public interest in disclosure clearly outweighs any invasion of privacy that could result from the disclosure, or
- (ii) disclosure would clearly benefit the individual to whom the information relates.

Cas d'autorisation

(2) Sous réserve d'autres lois fédérales, la communication des renseignements personnels qui relèvent d'une institution fédérale est autorisée dans les cas suivants :

[...]

m) communication à toute autre fin dans les cas où, de l'avis du responsable de l'institution :

- (i) des raisons d'intérêt public justifieraient nettement une éventuelle violation de la vie privée,
- (ii) l'individu concerné en tirerait un avantage certain.

FEDERAL COURT

SOLICITORS OF RECORD

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STYLE OF CAUSE: JACQUES NAULT v. THE MINISTER OF PUBLIC
WORKS AND GOVERNMENT SERVICES CANADA

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APPEARANCES:

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SOLICITORS OF RECORD:

None FOR THE APPLICANT

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