

**Office of the
Privacy Commissioner
of Canada**

112 Kent Street
Ottawa, Ontario
K1A 1H3
Tel.: (613) 995-8210
Fax: (613) 947-6850
1-800-282-1376
www.privcom.gc.ca

**Commissariat
à la protection de
la vie privée du Canada**

112, rue Kent
Ottawa (Ontario)
K1A 1H3
Tél.: (613) 995-8210
Télec.: (613) 947-6850
1-800-282-1376
www.privcom.gc.ca



File: 7100 [REDACTED]

MAR 25 2008

MAR 25 2008

Dear Mr. [REDACTED]

This letter is to report the results of our investigation of your *Privacy Act* complaint against the Office of the Inspector General of the CSIS (OIGCSIS). You stated in a letter received in our Office on November 16, 2007 that OIGCSIS failed to grant you access to personal information you sought to obtain under the *Act*.

Our investigation confirmed that OIGCSIS received your request for access to your personal information on November 1, 2007. Specifically, you sought access to all of your information held by OIGCSIS. On November 2, 2007, OIGCSIS informed you that it had searched its information holdings but that, in accordance with section 16(2) of the *Act*, it could neither confirm nor deny the existence of any information about you. You were also advised that if the personal information you requested did exist, it could reasonably be expected to be withheld under one or more of sections 19(1), 20, 21, 22(1)(a) and (b), 23, 25, 26, 27 and 28 of the *Privacy Act*.

Section 16(2) of the *Act* states that a government institution is not required to reveal whether personal information exists. However, section 16(1)(b) requires that the institution indicate the specific provisions of the *Act* that could reasonably be used to exempt the information if it did exist.

Although section 65(b) the *Act* also prohibits us from either confirming or denying the existence of the requested information, I am satisfied that our Office has conducted a full investigation and that the response you received from the OIGCSIS is in accordance with the requirements of the *Act*. Any personal information concerning you—if indeed it exists—could reasonably be expected to qualify for exemption under one or more of the provisions cited by the OIGCSIS.

... /2



I realize that this response is likely less than satisfactory to you. However, Parliament has given government institutions the discretion to refuse to indicate whether personal information exists, and we have no choice but to accept the authority of the OIGCSIS to respond in the manner in which it did. The decision of the Federal Court of Appeal in *Ruby v. Solicitor General* (2000) F.C.J. 779 confirms the right of a government institution to adopt a blanket policy under section 16(2) of never disclosing whether personal information concerning an applicant exists in a particular personal information bank. The right of a government institution to neither confirm nor deny the existence of personal information was also upheld by the Federal Court of Canada in the case of *Ternette v. Solicitor General of Canada*, (1984) 2 F.C. 486, 10 D.L.R. (4TH) 587, 32 Alta. L.R. (2d) 310 and in the case of *Jamshid Zanganeh v. CSIS* [1989] 1 F.C. 244. The *Zanganeh* decision further confirmed that this right to secrecy does not contravene the Charter.

I am of the view that you have received all of the personal information to which you are entitled under the *Privacy Act* and that OIGCSIS did not contravene the access rights afforded you under the *Act* in this case. I have therefore concluded that this complaint is not well-founded.

Section 41 of the *Privacy Act* provides a right to apply to the Federal Court of Canada for review of the decision of a government institution to refuse to provide access to personal information. You should be aware that an application under section 41 is limited to establishing that you have been denied a right of access. Having now received this report, you have the right to apply to the Federal Court under section 41 for review of the decision of OIGCSIS. Such an application should name the appropriate Minister responsible for OIGCSIS as respondent and it must be filed with the Court within 45 days of receiving this letter. Should you wish to proceed to the Court, we suggest you contact the Court's Registry Office nearest you. Their locations are listed in the Court's website at www.fct-cf.gc.ca and a telephone number for the registry office nearest you should be listed in your telephone directory's blue pages.

You should also be aware that the Court has discretion to order that the costs of the other party be paid by you where the Court is of the view that this is appropriate. While this does not happen often, it is a possibility of which you should be aware. Conversely, the Court may order that your costs be paid where the Court finds that your application raises an important new principle.



This completes our investigation of this matter on your behalf and our file is now closed.

Yours sincerely,



A/Director General
Investigations and Inquiries Branch