



Information and Privacy
Commissioner/Ontario
Commissaire à l'information
et à la protection de la vie privée/Ontario

ORDER P-212

Appeal 900634

Ministry of the Attorney General



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O R D E R

On October 30, 1990, a request was received by the Ministry of the Attorney General (the "institution") under the Freedom of Information and Protection of Privacy Act, 1987, as amended (the "Act"). The requester sought access to all correspondence between the Ministry of the Attorney General and the Ministry of the Solicitor General involving murder charges against an individual.

On November 29, 1990, the institution responded to the request in the following manner:

We wish to advise you that we have extended the time limit in accordance with section 27 of the Act for an additional 90 days to February 28, 1991.

The reason for the extension is that further consultations cannot reasonably be completed within the time limit necessary to comply with the request.

On December 10, 1990, the requester appealed the decision of the institution to extend the statutory thirty (30) day time limit for responding to the request for an additional ninety (90) days. Notice of the appeal was given to the institution and to the appellant.

The appeals officer was not able to effect a mediated settlement of the appeal. Accordingly, on December 19, 1990, notice that an inquiry was being conducted to review the head's decision was

sent to the institution and representations were requested from the institution as to the reasons and the factual basis for its decision to extend the time to respond to the request. The appellant was also notified of the inquiry and given the opportunity to comment on the issues raised by the appeal.

Representations were received from the institution and I have considered them in making my Order.

The sole issue for me to determine in this appeal is whether the extension of time claimed by the institution as necessary to respond to the request is reasonable in the circumstances.

Subsection 27(1) of the Act states as follows:

A head may extend the time limit set out in section 26 for a period of time that is reasonable in the circumstances, where,

- (a) the request is for a large number of records or necessitates a search through a large number of records and meeting the time limit would unreasonably interfere with the operations of the institution:
or,
- (b) consultations with a person outside the institution are necessary to comply with the request and cannot reasonably be completed within the time limit.

Having carefully considered the representations of the institution, it is my view that the head's decision to extend the time for responding to the appellant's request for an additional ninety (90) days is not reasonable. It is my view that, while certain of the consultations referred to in the institution's representation were appropriate, these consultations could have been completed within an additional sixty (60) day period. The effect of a sixty (60) day extension being that the institution would have a total of ninety (90) days in which to complete its consultations and respond to the appellant's request.

In its representations, the institution stated that third parties (e.g. witnesses) may also be consulted. However, the institution failed to identify with certainty who those affected persons might be. Accordingly, I order the institution to send any section 28 notices that it intends to send within ten (10) days of the date of this Order. Of course, the institution must follow the appropriate procedures as set out in the Act should any section 28 notices be sent. I further order the institution to provide me with copies of any section 28 notices that are sent to affected persons.

Finally, subject only to the possibility of the institution sending section 28 notices, I order the institution to respond to the appellant's request by January 28, 1991. I further order the institution to provide me with a copy of its decision on access within five (5) days of the date that the notice of the decision is sent to the appellant.

Copies of the section 28 notices, if any, and the institution's decision on access should be forwarded to my attention c/o

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

Original signed by:
Tom A. Wright
Assistant Commissioner

January 11, 1991
Date