



**Information and Privacy  
Commissioner/Ontario**

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

# **ORDER P-1137**

**Appeal P-9500126**

**Ministry of Health**



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## **BACKGROUND:**

At their conference on June 21 and 22, 1993, the Deputy Ministers of Health for the provinces and territories of Canada (excepting Nova Scotia) decided to explore options for a joint provincial/territorial approach to the question of financial assistance to persons infected with Human Immunodeficiency Virus (HIV) via the blood system. The Deputy Ministers considered that a common approach to financial assistance was desirable for two reasons:

- (1) the blood system which was at the centre of the HIV infection situation was a national system, funded cooperatively by all provinces/territories in accordance with their populations - all jurisdictions were affected; and
- (2) because HIV infection via the blood system was an issue which was national in scope, it was determined that there should be a maximum of consistency and fairness across Canada in terms of eligibility for financial assistance and in terms of assistance package benefits and associated terms and conditions.

A steering committee of Deputy Ministers, under the leadership of the Deputy Minister from Alberta, was created to put together a basic financial assistance package acceptable to all participating provinces and territories. The Deputy Ministers from Ontario, Saskatchewan, Newfoundland, New Brunswick and British Columbia comprised the remainder of the Steering Committee.

The financial package was called the Multi-Provincial and Territorial Assistance Plan (the MPTAP). Many interested parties, including insurers for the governments, as well as insurers for hospitals, physicians, manufacturers of blood products (the fractionators) and the Red Cross joined in funding the compensation package. The Canadian Blood Agency was to act as administrator of the MPTAP and of the fund.

A Co-ordinating Committee was established to advise and support the work of the Steering Committee. Its primary role was to negotiate and secure financial contributions for the financial package from insurers and fractionators. It was chaired by a representative from Alberta Health and consisted of representatives from British Columbia and New Brunswick. The negotiator and counsel retained by the provinces and territories was a member of this committee.

As part of its commitment to assist in developing the MPTAP, the province of Saskatchewan provided personnel to provide and co-ordinate legal advice and services.

A basic package was developed jointly by provincial/territorial health ministry officials during the course of the summer, with each jurisdiction approaching its government to secure approval and funding authority. An initial set of options was discussed with stakeholder groups in August, 1993 and a revised financial assistance package was announced publicly by the provincial/territorial Health Ministers on September 15, 1993.

The public announcement included information about the benefits applicants were to receive and the total cost of the package. The three key elements of the package were benefits to those directly affected, benefits to survivors and a waiver that precluded legal action against the provinces, territories, Canadian Red Cross, fractionators and insurers. The public announcement did not include a breakdown of the contributions made by each province, territory, insurer or fractionator. A deadline of March 15, 1994 was set for acceptance of the package.

Further development and enrichment of the basic package occurred subsequently after additional negotiations conducted between the provinces, territories and insurance companies and other third parties. As a result of these negotiations, the agreement was amended on November 30, 1993.

### **NATURE OF THE APPEAL:**

The Ministry of Health (the Ministry) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for access to:

... all documents relating to the Multi-Provincial and Territorial Assistance Package, which was offered to people infected with HIV through the blood supply in late 1993, early 1994. Included in this request are all documents relating to the deliberations leading up to this package, and the negotiations with other parties involved in the package.

The request was submitted by a lawyer who represents individuals who contracted HIV through the blood supply.

The Ministry identified 842 responsive records and, in a decision letter dated February 15, 1995, denied access to them in their entirety on the basis of the following exemptions in the Act:

- Cabinet records - section 12(1)
- advice and recommendations - section 13(1)
- relations with other governments - section 15
- third party information - section 17(1)
- economic and other interests - section 18(1)
- solicitor-client privilege - section 19

The Ministry subsequently indicated that some records would be subject to the mandatory exemption in section 21(1) of the Act (invasion of privacy).

On March 6, 1995, the requester appealed the denial of access.

During mediation, the appellant eliminated 561 records from the scope of the appeal. He also indicated that he was not seeking access to the personal information of any identifiable individuals. In addition,

the Ministry disclosed 117 records in their entirety to the appellant. As a result, the number of records at issue has been substantially reduced. They are described in Appendix A to this order.

The Ministry has indicated that the majority of these records were located in the files of counsel with the Ministry's Legal Services Branch which took the lead on the MPTAP legal issues. A smaller number of documents are from the files of the Ministry's Corporate Policy Secretariat.

On October 12, 1995, a Notice of Inquiry was sent to the appellant and the Ministry, as well as to the following groups of parties whose interests might be affected by disclosure of the information contained in the records:

- Health Canada and the ministries of health of all the provinces and territories (12)
- the insurance companies (or their counsel where identified in the records) (10)
- the negotiator
- various organizations and associations involved in the MPTAP negotiations (8)
- Revenue Canada

In the Notice, the insurance companies, organizations and associations were also invited to comment on the application of the third party information exemption, section 17(1) of the Act, to several records in addition to those originally identified by the Ministry.

Representations were received from the Ministry, the appellant, Health Canada, seven provinces, one territory, the negotiator, counsel for six insurance companies and/or fractionators and two of the associations involved in the MPTAP negotiations.

## **DISCUSSION:**

### **PRELIMINARY ISSUES**

#### **LATE RAISING OF DISCRETIONARY EXEMPTIONS**

On March 21, 1995, the Commissioner's Office provided the Ministry with a Confirmation of Appeal indicating that an appeal from the Ministry's decision had been received. The Confirmation also indicated that, based on a policy adopted by the Commissioner's office, the Ministry had 35 days from the date of the confirmation, until April 25, 1995, to raise any new discretionary exemptions not originally claimed in its decision letter. No additional exemptions were raised during this period.

The policy referred to in the Confirmation of Appeal was initially brought to the attention of the Ministry in the form of a publication entitled "IPC Practices: Raising Discretionary Exemptions During an Appeal" which was sent by the Commissioner's office to all provincial and municipal institutions in January of 1993.

The Ministry's initial decision on February 15, 1995 was to deny access to all of the records in their entirety based on the exemptions previously cited. This decision did not identify which exemptions the

Ministry was applying to which documents. Presumably, the position of the Ministry at that time was that each of the seven exemptions claimed applied to each of the 842 records.

The Ministry did not forward the records to the Commissioner's office by April 4, 1995 as requested in the Confirmation of Appeal. Accordingly, the Appeals Officer attended at the Ministry's office to review the records. This process took several days commencing on May 5, 1995. On June 1, 1995, the Appeals Officer wrote to the appellant advising him of his opinion that certain records could be eliminated from the scope of the appeal. The appellant agreed in a telephone conversation of June 7, 1995. The Ministry was advised of this in a letter dated June 9, 1995.

On June 16, 1995, the Appeals Officer again wrote to the appellant confirming that several additional records had been excluded from the scope of the appeal, on the basis of the information the appellant had conveyed in the telephone conversation of June 7, 1995. On July 20, 1995, the Ministry was advised that these additional records had been eliminated. By this time, some 387 documents had been eliminated from the scope of the appeal.

In the interim, on July 4, the Ministry forwarded the records to this office. On July 14, 1995, the Ministry provided a hard copy of the index (the first index) of the records denoting the exemption(s) claimed to deny access to some of the records. At this time, the Ministry had yet to apply specific exemptions to several of the records. The Ministry had advised this office that the index had been prepared with the assistance of counsel.

After this date, the Appeals Officer had several conversations with the Freedom of Information and Privacy Co-ordinator of the Ministry, and other analysts, about the appeal and the receipt of a copy of the index on a computer diskette. At this time, the Co-ordinator confirmed that he would again be meeting with Ministry counsel to discuss the exemptions being claimed for records to which the Ministry had yet to assign specific exemptions.

At the same time, the Appeals Officer was in touch with the appellant about the possibility of eliminating still further records from the scope of the appeal. On July 31, 1995, the Appeals Officer wrote to the appellant confirming his agreement that some 200 additional records could be eliminated. The Ministry was so advised in a letter dated August 14, 1995.

On August 11, 1995, the Appeals Officer received another hard copy of the index (the second index) as well as a diskette containing the index. This index indicated that some exemptions which had been claimed in the first index had been withdrawn. Accordingly, certain records could be disclosed to the appellant. While the Ministry had assigned exemptions for some of the outstanding records, there were still some records for which the Ministry had yet to apply specific exemptions or to make a decision to disclose.

On August 14 and September 21, 1995, the Ministry disclosed some of the records to the appellant and advised this office.

On November 29, 1995 the Ministry submitted its representations in response to the Notice of Inquiry. Attached to these representations was another index (the third index) in which the Ministry indicated for the first time that it wished to claim additional discretionary exemptions for numerous records. The Ministry did not specifically identify those exemptions which it was now applying to records which it had not previously claimed for these documents. However, I have compared the exemptions assigned to the records in the second index and those in the third. The additional exemptions now being claimed for specific records are:

<b>Additional Discretionary Exemptions Now Being Claimed</b>	<b>Records to Which they are now being Applied</b>
13(1)	38, 43, 53, 140
15	3, 7, 8, 22, 23, 26, 29, 30, 31, 37, 41, 45, 47, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 82, 86, 94, 96, 105, 106, 113, 114, 117, 119, 120, 121, 122, 126, 128, 130, 134, 145, 162
18	27, 41, 42, 47, 60, 61, 62, 65, 68, 71, 80, 81, 113, 124, 136, 153, 154
19	15, 17, 22, 24, 33, 50, 93, 96, 138, 141

The majority of these records were also the subject of timely claims for the application of other exemptions.

Previous orders issued by the Commissioner's office, including my own, have held that the Commissioner or his delegate has the power to control the manner in which the inquiry process is undertaken. This includes the authority to establish time limits for the receipt of representations and to limit the time frame during which an institution can raise new discretionary exemptions not originally cited in its decision letter, subject, of course, to a consideration of the particular circumstances of each case.

In Order P-658, I explained why the prompt identification of discretionary exemptions is necessary to maintain the integrity of the appeals process. I indicated that, unless the scope of the exemptions being claimed is known at an early stage in the proceedings, it will not be possible to seek a mediated settlement of the appeal under section 51 of the Act.

I also pointed out that, where a new discretionary exemption is raised after the Notice of Inquiry is issued, as was the case in the present appeal, it will be necessary to re-notify all parties to an appeal to solicit additional representations on the applicability of the new exemptions claimed. The result is that the processing of the appeal will be further delayed. Finally, I made the point that the value of information which is the subject of an access request often diminishes with time. In these situations,

appellants are particularly prejudiced by delays resulting from the late raising of discretionary exemptions.

The objective of the policy is to provide government institutions with a window of opportunity to raise new discretionary exemptions but not at a stage in the appeal where the integrity of the process is compromised or the interests of the appellant in the release of the information prejudiced.

In this appeal, the Ministry initially claimed the exemptions in question, sections 13(1), 15, 18 and 19, but only for other records. The Ministry now seeks to extend the application of these exemptions to include 61 additional records. In my view, the objective of the policy is equally applicable to this situation. This approach was recently upheld by the Divisional Court in the case of Ontario (Ministry of Consumer and Commercial Relations) v. Fineberg (21 December 1995) Toronto Docket 220/89.

The Ministry now wishes to apply the discretionary exemptions cited to the additional records some eight months after the Confirmation of Appeal was issued, notwithstanding this early advice.

In adjudicating the issue of whether to allow the Ministry to claim these discretionary exemptions at this time, I must weigh the balance between maintaining the integrity of the appeals process against the evidence of extenuating circumstances advanced by the Ministry (Order P-658). I must also balance the relative prejudice to the Ministry and the appellant in the outcome of my ruling.

The Ministry has provided the following explanation on why it now wishes to apply these additional exemptions, and why I should consider their application at this time:

In reassigning exemptions to some documents, the ministry took very seriously the IPCO's policy of only allowing exemptions to be raised thirty five days after issuing the confirmation of appeal. The ministry concluded that it had to apply the exemptions when it became aware of their relevance and because of the content and sensitivity of the documents. The need to apply the exemptions became clear for the following reasons:

- (i) A line-by-line analysis was required of the documents when the representations were being written. Such close scrutiny was not possible during mediation when 842 documents were at issue and exemptions assigned to individual documents.
- (ii) Because of the complexities of the MPTAP negotiations, only after a line-by-line analysis was the importance and inter-relationship of information contained in separate documents made clear. It was at this point that the relevant exemptions were identified.

- (iii) The complexity of the documents and the interests of the numerous and diverse groups which they affect, is seen in the fact twenty-three organizations were sent third party notices by the IPCO [in fact, 32 affected parties were notified by this office].
- (iv) It is mandatory to exempt from disclosure extremely sensitive and confidential financial information of insurers and fractionators.
- (v) It is mandatory to exempt from disclosure sensitive personal information of individuals who contracted HIV through the blood supply.

For all these reasons, the Ministry concluded that it must apply all relevant exemptions to the documents.

I will address each of these points in turn.

The Ministry's first two points appear to relate to the volume, complexity and "inter-relationship" of the records as providing a reason why I should consider the application of the discretionary exemptions sought to be applied by the Ministry at this time. While I appreciate that this appeal involves numerous complex documents, I reject these arguments in this case for a number of reasons.

The legislation itself recognizes that there will be situations in which the request is for numerous records. Accordingly, there is a process established in section 27(1) of the Act which is available for an institution to follow in such cases. Section 27(1) reads:

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;

...

In my view, this is precisely the type of case, where the request is for a large number of records, that this section was designed to accommodate. The Ministry never advised the appellant that it required more time to issue its original decision. If the appellant had objected to the length of the time extension, he could have appealed this decision of the Ministry. Even if the Ministry had claimed an extension of some three months, which the appellant did not appeal, the exemptions at issue during both the mediation and inquiry stages of the appeal would presumably have been established, once and for all. It



is possible that more records could have either been disclosed by the Ministry or eliminated from the scope of the appeal by the appellant during mediation. All of the exemptions at issue for each record would have been set out in the Notice of Inquiry sent to the affected parties, who would have had the opportunity to comment on all the exemptions claimed by the Ministry.

Moreover, as I have indicated, prior to the Ministry applying exemptions to any particular records, the Appeals Officer was actively working with the appellant to narrow the scope of the request. Some of this mediation proceeded on the basis that there were a number of categories of records and documents addressing certain issues in which the appellant had no interest. Thus, the Ministry could have waited until this exercise was complete before undertaking the task of applying exemptions to particular records. As it turned out, the Ministry expended time on reviewing numerous records which were eliminated on this basis, in mediation with the appellant, early on from the scope of the appeal.

Furthermore, as I have indicated, the Appeals Officer had been advised that Ministry counsel was involved in preparing the index. One would have assumed that counsel would have undertaken the “line-by-line” analysis in order to provide the Ministry with legal advice as to the exemptions which should be claimed. Having reviewed the original index, I note that, in some cases, certain exemptions have been claimed for a particular document and not claimed for one that is very similar. In such cases, where discretionary exemptions are at issue, the implication is that the decision maker must have exercised his or her discretion in not applying the exemptions to the similar records.

In my view, the Ministry had ample time to review the records and consult with counsel to confirm the discretionary exemptions on which it wished to rely as the appeal proceeded through the mediation and inquiry stage of the process.

I also note that, at no time after the preparation of the first index, or indeed, after the second index, did the Ministry advise this office that it wished to “reassign” the discretionary exemptions, until it submitted the third index with its representations. Thus, even taking the date of the first index as the date of the decision letter for the purposes of the policy, the new claims have been made some three months late. Had the Ministry claimed the new discretionary exemptions **prior** to the issuance of the Notice of Inquiry, and advanced at that time a reasonable basis for raising the exemptions late, all the parties could have been afforded the opportunity to comment on whether the claims should be allowed to proceed. They would have also been requested to comment on the application of the new exemptions claimed. This is the practice of this office in such cases. Therefore, the interests of procedural fairness could have been accommodated in a timely fashion without undue delay and prejudice to the appellant, who requires the records to advise his clients, many of whom are seriously ill, regarding decisions that must be made in pursuing civil actions on their behalf.

I might add, that if institutions were to adopt the Ministry’s strategy of applying blanket exemptions to all responsive records, they would defeat the purpose of the requirements for decision letters as set out in section 29(1)(b) of the Act.

To summarize these points, I accept that there may be instances involving numerous complex records where the 35-day policy should not apply. However, based on the above, the Ministry has not satisfied me that this is one of them.

The Ministry next refers to the number of affected parties which were notified as confirming the complexity of the documents and the diverse interests involved in this appeal. While numerous affected parties were notified of this appeal, the Ministry has not indicated why or how this fact supports the Ministry's position on the application of the additional discretionary exemptions at this time. The Commissioner's office notified all of these parties and received submissions from a number of them. In my view, the fact that there are numerous affected parties in this case, highlights the delays which will take place should I now accept the Ministry's position on the application of the reassigned exemptions. All of these parties will have to be renotified of the Ministry's position at this time.

The Ministry's final two points relate to the application of the mandatory exemptions contained in sections 17(1) and 21 of the Act, which respectively relate to the financial information of insurers and fractionators and personal information of individuals who contacted HIV through the blood supply. As section 17(1) is a mandatory, as opposed to a discretionary exemption, I will consider its application to all the records for which it has been claimed at any time. As I have previously indicated, the appellant is not seeking access to the personal information of any identifiable individuals. Thus, no personal information will be disclosed as a result of this order.

Historically, this office has been concerned with delays in providing information to appellants resulting from an institution claiming discretionary exemptions after the appeals process has commenced. The Ministry and all other provincial and municipal institutions had been previously advised of the manner in which this office addresses this situation. This notice was provided in the January, 1993 "IPC Practices". More particularly, the Confirmation of Appeal issued in this case provided the Ministry with the specific date by which it should claim additional discretionary exemptions. The Ministry did not do so.

I have carefully considered the submissions of the Ministry on this issue. While I agree that this is a complex case, involving numerous records, I am not satisfied that the reasons provided by the Ministry have merit in the circumstances of this appeal.

The Ministry has been involved with this appeal for some ten months. I have set out the chronology of this file in some detail in order to highlight the numerous points at which the Ministry could have advised this office that it wished to reassign its discretionary exemptions. In my view, none of the submissions provided by the Ministry qualify as "extenuating circumstances" necessary to remove this appeal from the policy parameters established by the Commissioner's office. Were I now to consider the application of the discretionary exemption in sections 13(1), 15, 18 and 19 to the 61 records for which they are now being claimed, the principles of natural justice would require that this office renotify the appellant and the affected parties, which would result in further delays and prejudice to the appellant.

I have considered all the circumstances of this appeal, including the application of the timely exemption claims made by the Ministry which has resulted in all but four of the records listed on page 5 of this

order being exempted from disclosure in any event, and I am not prepared to consider the application of the discretionary exemptions in sections 13(1), 15, 18 and 19 of the Act to the 61 records previously listed.

### **RAISING OF DISCRETIONARY EXEMPTIONS BY AN AFFECTED PARTY**

Counsel for one of the insurance companies which has provided representations submits the following:

... Although the negotiations that made the MPTAP a reality were not conducted with respect to any one particular action, they took place in the context of the existing and future HIV-litigation, as all of the contributors to the MPTAP were parties or potential parties to that litigation. The documents which detail the progress of these negotiations and the decisions regarding the administration of the program form part of all involved solicitors' litigation files, including our own, in our capacity as solicitors for the [insurance company] and [its insured].

Counsel appears to be suggesting that all of these records should be exempt under section 19 of the Act, solicitor-client privilege. While the Ministry has applied this exemption to a number of these documents, it has not been claimed for all of the records suggested by counsel for the insurer.

One of the provinces submits that section 19 should be applied to Records 9-12, 24, 28, 31-35, 39, 46, 50-52, 56, 57 and 138 as they are documents created by or for counsel for that province. The Ministry initially claimed this exemption for all of these records with five exceptions. The Ministry has never applied section 19 to Record 28. The Ministry sought to assign this exemption to Records 24, 33, 50 and 138 for the first time in its submissions, a proposition I rejected in my previous discussion of this issue.

Another province suggests that section 13(1) should be applied to Records 73, 81 and 106 in the absence of such a claim by the Ministry. It submits that section 15 should exempt all the records with a few exceptions. This province also submits that section 19 should apply to Records 36 and 74 when it has not been claimed by the Ministry, and to Record 40 where it was claimed in the Ministry's submissions for the first time.

Counsel for one of the fractionators submits that Records 37, 60 and 67 should be exempt under section 18(1) of the Act. The Ministry has not claimed this exemption for Records 37 and 67, and claimed it for Record 60 for the first time in its submissions, a claim I rejected above. In addition, counsel submits that he objects to the disclosure of any documents "... that refer collectively to the 'fractionators' or 'manufacturers' ..." even where there is no specific reference to his client.

Counsel for one of the organizations submits that "... we have reason to believe that all of the documentation listed in the Notice of Inquiry was prepared for use by Crown counsel in contemplation of litigation. Accordingly, section 19 would apply ...". The Ministry has not claimed that all of the records are exempt under solicitor-client privilege.

In my view, all of these submissions relate to the issue of whether an affected party may raise a discretionary exemption when it was not claimed by the institution which received the request for access to information.

The Act includes a number of discretionary exemptions within sections 13 to 22 which provide the head of an institution with the discretion to refuse to disclose a record to which one of these exemptions would apply. These exemptions are designed to protect various interests of the institution in question. If the head feels that, despite the application of an exemption, a record should be disclosed, he or she may do so. In these circumstances, it would only be in the most unusual of situations that the matter would come to the attention of the Commissioner's office since the record would have been released.

The Act also recognizes that government institutions may have custody of information, the disclosure of which would affect other interests. Such information may be personal information or third party information. The mandatory exemptions in sections 21(1) and 17 of the Act respectively are designed to protect these other interests. Because the Office of the Information and Privacy Commissioner has an inherent obligation to ensure the integrity of Ontario's access and privacy scheme, the Commissioner's office, either of its own accord, or at the request of a party to an appeal, will raise and consider the issue of the application of these mandatory exemptions. This is to ensure that the interests of individuals and third parties are considered in the context of a request for government information.

Because the purpose of the discretionary exemptions is to protect institutional interests, it would only be in the most unusual of cases that an affected person could raise the application of an exemption which has not been claimed by the head of an institution. Depending on the type of information at issue, the interests of such an affected person would usually only be considered in the context of the mandatory exemptions in section 17 or 21(1) of the Act.

In this case, the Ministry has claimed that numerous discretionary exemptions apply to the records. In addition, as I have indicated, I will consider whether the mandatory exemption provided by section 17(1) of the Act applies to certain records for which it was not claimed by the Ministry. No personal information will be ordered disclosed as the appellant is not seeking access to such information.

In my view, the interests of all the affected parties have been taken into account in making this ruling and they will, of course, also be considered in the ultimate disposition in this order. I consider the additional discretionary exemption claims advanced by the affected parties as an attempt to protect interests not at issue in this appeal. I cite, for example, claims by another province that section 13(1) should apply to records containing advice provided to that province by one of its employees in circumstances where such records are subsequently forwarded to Ontario. The Ministry has claimed that section 15 should apply to such records as the disclosure of such information would affect the intergovernmental relationship between Ontario and this province. In my view, this is the appropriate manner in which to consider such records under the Act.

Accordingly, I find that it is not necessary for me to consider the application of the discretionary exemptions sought to be applied by the affected parties.

With respect to the comment of one party who objects to the disclosure of any document referring collectively to the fractionators or manufacturers, I note that section 17(1) is designed to protect the interests of third party financial information, etc. I will consider each record for which this exemption has been raised to ascertain if it applies.

## **RECORDS THAT MAY NOW BE DISCLOSED**

The Ministry has now withdrawn its reliance on any exemptions with respect to Records 13, 89, 102, 107 and 137. It has also withdrawn its discretionary exemption claims for Records 14 and 85.

The only information at issue in Records 14 and 85 is personal information which the appellant has indicated he is no longer interested in. Records 85, 89, 102 and 137 contain information related to the affected party which has consented to the disclosure of information that may affect its interests. Record 137 also contains some personal information.

In these circumstances, Records 13, 89, 102 and 107 should be disclosed to the appellant in their entirety. Records 14, 85 and 137 should be disclosed with the exception of the personal information. I have highlighted the personal information on the copies of these records provided to the Freedom of Information and Privacy Co-ordinator of the Ministry with a copy of this order.

In addition, the exemptions claimed by the Ministry to apply to Records 86, 106, and 119 are those discretionary exemptions which were applied to these records for the first time in the appendix attached to the Ministry's submissions. In my discussion of the "Late Raising of Discretionary Exemptions", I indicated that I was not prepared to consider these. The original exemptions claimed were discretionary ones and the Ministry has provided no submissions on their application. In addition, one of the original exemptions claimed for Record 119 was section 17(1) and the affected party whose interests may be affected by disclosure of this record has consented to its disclosure. No mandatory exemptions apply. In these circumstances, Records 86, 106 and 119 should be disclosed to the appellant.

The Ministry originally applied sections 13(1) and 18(1) to exempt Record 22 from disclosure. It has provided no submissions on the application of these exemptions to this document. I have indicated that I am not prepared to consider the application of sections 15 and 19 to this record as they were raised for the first time in the third index. Therefore, Record 22 should be disclosed to the appellant.

The Ministry claimed that section 21 applies to the small portion of Record 134 which was not disclosed to the appellant. As this portion contains personal information to which the appellant is not seeking access, there is nothing more for me to consider with regard to this record.

## **DUPLICATES**

Record 114 is a duplicate of the appendix portion of Record 81 so I will consider it in my analysis of that record. Record 126 is a duplicate of Record 125 with some minor revisions so I will consider it in my analysis of Record 125.

## **RESPONSIVENESS OF RECORDS**

### **Record 147**

In the first index provided to this office, the Ministry indicated that Record 147 was not responsive to the appellant's request. In the Notice of Inquiry, the Ministry and the appellant were asked to comment on this matter. Only the Ministry did so in its submissions. However, I have also considered the appellant's general comments on the scope of his request as cited below in my discussion of the responsiveness of Record 159.

Record 147 relates to and includes a letter from the then federal Minister of National Health and Welfare to the Ontario Minister of Health. In this document, the federal minister provides the province with a copy of the report, prepared by the Parliamentary sub-committee on Health Issues, on the events related to HIV contamination of the Canadian blood supply in the 1980's.

The Ministry states that this record is not responsive to the request because it is not about the MPTAP negotiations, nor was it created during that process.

I agree. While the subject of the report in Record 147 is HIV contaminated blood, I find that it is not reasonably related to the appellant's request for copies of all documents relating to the MPTAP, including those concerning the deliberations that lead up to the package. Accordingly, I will not consider it in this order.

### **Record 159**

In its third index, included as part of its submissions, the Ministry claimed that Record 159 was also not responsive to the request. The Ministry stated that, if the record was found to be responsive, it reserved the right to make representations on the relevant exemptions. In order to resolve all the outstanding matters involving this appeal, the appellant was contacted to ascertain if he was interested in seeking access to this record.

The appellant believes that the Ministry adopted a too narrow interpretation of his request. In his submission:

... this request encompasses all documents which in any way provide information which was considered in the decision whether or not to offer a compensation package, and documents relating to the development of the package itself.

If the record in question relates to HIV in the blood supply, and proposals or requests for compensation, it is in my view responsive and should be disclosed. My request was broader than just documents relating to the “negotiations”, and therefore the fact that the document pre-dates the negotiations is not determinative.

Record 159 is a package of documents dated April 28, 1993, related to Recombinant Factor VIII, which was to be a topic of discussion at the meeting of the Canadian Blood Agency on May 27, 1993. I accept the appellant’s submissions that the date of a document is not determinative of whether it is responsive to his request. However, this record contains no information related to the decision to offer a compensation package, nor does it reasonably relate to any of the issues surrounding the development of the package itself. Accordingly, I find that it is not responsive to this request.

### **THE EXISTENCE OF ADDITIONAL RECORDS/INTERPRETATION OF THE REQUEST**

As I have just indicated, the appellant has recently suggested that it is possible that the Ministry has taken too narrow a view of his request. He states:

... In my submission, my request begins when the idea of compensation was first raised, likely in about 1988 or 1989, and continues until today. If the ministry has taken a narrower view, I would ask that they review their records again.

The oldest record included in this appeal is dated April, 1993. It thus appears that the Ministry interpreted the appellant’s request to be limited to those records related to the decision made by the Deputy Ministers of Health at their conference on June 21 and 22, 1993 to explore options for a joint provincial/territorial approach to the question of financial assistance to persons infected with HIV via the blood system.

Sections 24(1) and (2) of the Act set out the responsibilities of institutions and requesters with regard to access requests. These sections state:

- (1) A person seeking access to a record shall make a request therefor in writing to the institution that the person believes has custody or control of the record and shall provide sufficient detail to enable an experienced employee of the institution, upon a reasonable effort, to identify the record.
- (2) If the request does not sufficiently describe the record sought, the institution shall inform the applicant of the defect and shall offer assistance in reformulating the request so as to comply with subsection (1).

In my view, given the wording of the appellant’s request as set out on page 2 of this order, the interpretation adopted by the Ministry in responding to the request was reasonable and the Ministry had no obligation pursuant to section 24(2) to assist the appellant in clarifying the request. At this time,

should the appellant wish to access the records he has referred to in his supplementary representations, he is entitled to make a further access request to the Ministry for the specific information he is seeking.

## DISCUSSION OF THE EXEMPTIONS

### RELATIONS WITH OTHER GOVERNMENTS

Section 15 of the Act states:

A head may refuse to disclose a record where the disclosure could reasonably be expected to,

- (a) prejudice the conduct of intergovernmental relations by the Government of Ontario or an institution;
- (b) reveal information received in confidence from another government or its agencies by an institution; or
- (c) reveal information received in confidence from an international organization of states or a body thereof by an institution,

and shall not disclose any such record without the prior approval of the Executive Council.

For a record to qualify for exemption under section 15(a), the Ministry must establish that:

1. the relations must be intergovernmental, that is relations between the Government of Ontario or an institution and another government or its agencies; **and**
2. disclosure of the records could give rise to a reasonable expectation of prejudice to the conduct of intergovernmental relations.

[Order P-908]

For a record to qualify for exemption under section 15(b), the Ministry must establish that:

1. the records reveal information received from another government or its agencies; **and**
2. the information was received by an institution; **and**
3. the information was received in confidence.



[Order 210]

The records for which the Ministry claims the application of section 15(a) and/or (b) which I will consider in this order are:

5, 9-12, 15-21, 24, 28, 32-36, 39, 40, 43, 44, 46, 48-58, 70, 72-81, 84, 87, 88, 90-93, 95, 97-100, 103, 104, 110-112, 115, 118, 123-125, 127, 129, 133, 134, 136, 138-144, 160, 161 and 163.

These records consist of communications exchanged directly between Ontario and the other provinces and/or territories, as well as correspondence between these other parties which was copied to Ontario. Some of these records were created by the Ministry for internal use and incorporate the information received from the other provinces and/or territories.

As part of its submissions, the Ministry has provided an overview of the context in which the MPTAP discussions between the provinces and territories were conducted. The Ministry indicates that, from the outset, the provinces and territories were encouraged to discuss any issues in an open and candid manner. The Ministry states that these discussions and supporting documentation were shared on an explicitly confidential basis.

It is the position of the Ministry that disclosure of such information could reasonably be expected to inhibit any further co-operative ventures among the provinces and territories, not only with respect to MPTAP, but also with respect to other issues requiring national cooperation and consultation. The Ministry states that:

It is reasonable to expect that these parties would hesitate to discuss with Ontario mutual concerns on the basis that disclosure might place them in an unfavourable light with the public, private sector or interest groups.

...

... Without assurances that the information about national health issues will be protected, other governments could reasonably be expected to be reluctant about sharing information with Ontario. A "chilling effect" will descend on intergovernmental negotiations involving Ontario, where it is clearly in Ontario's interests to ensure that it continues to receive written material and be involved in discussions on major health and other issues with other governments.

All of the provinces and territories which submitted representations support the Ministry's characterization of the discussions and negotiations leading to the development of the MPTAP, their expectations of confidentiality with respect to communications provided to Ontario and their concerns about the reasonable expectation of prejudice to their relationships with Ontario that could occur upon disclosure of the records.

Having reviewed the records and the submissions of the parties, I make the following findings:

- (1) Records 5, 9-12, 15-19, 24, 28, 32-34, 36, 39, 40, 43, 46, 48-54, 56-58, 70, 72-81, 84, 87, 88, 90-92, 93 (except for the electronic mail (e-mail) message of July 20, 1993), 95, 97-100, 103, 104, 110-112, 115, 118, 123-125, 127, 129, 133, 138, 139, portions of 140, 141-144, 160, 161 and 163 are exempt under section 15(a). I find that their disclosure could reasonably be expected to prejudice the conduct of the intergovernmental relations between the Ministry and the governments of the other provinces and territories.
- (2) Although very small portions of the remaining records, 20, 21, 35, 44, 55 and 136 contain references to other governments, I find that they are more appropriately analysed under the other exemptions claimed by the Ministry. This also applies to the e-mail of July 20, 1993 in Record 93 as well as to the balance of Record 140.

## **CABINET RECORDS**

Of the records remaining at issue, the Ministry has claimed that section 12(1) of the Act applies to exempt Records 93 (the e-mail of July 20, 1993), 94, 96, 120, 121, 128, 131, 132, 140 (the remaining portion), 146, 148-152, 155, 156, 158 and 164. In some cases, the Ministry applied section 12(1) to certain records for the first time in its submissions. In addition, it has revised the particular subsections of the exemption which it is claiming for each record. However, as section 12(1) is a mandatory exemption, I must consider the application of the entire section to any record for which it is now being claimed at this time.

Section 12(1) of the Act states, in part:

A head shall refuse to disclose a record where the disclosure would reveal the substance of deliberations of the Executive Council or its committees, including,

- (a) an agenda, minute or other record of the deliberations or decisions of the Executive Council or its committees;
- (b) a record containing policy options or recommendations submitted, or prepared for submission, to the Executive Council or its committees;
- (c) a record that does not contain policy options or recommendations referred to in clause (b) and that does contain background explanations or analyses of problems submitted, or prepared for submission, to the Executive Council or its committees for their consideration in making decisions, before those decisions are made and implemented;

- (d) a record used for or reflecting consultation among ministers of the Crown on matters relating to the making of government decisions or the formulation of government policy;
- (e) a record prepared to brief a minister of the Crown in relation to matters that are before or are proposed to be brought before the Executive Council or its committees, or are the subject of consultations among ministers relating to government decisions or the formulation of government policy;

...

It has been determined in a number of previous orders that the use of the term “including” in the introductory wording of section 12(1) means that the disclosure of any record which would reveal the substance of deliberations of an Executive Council or its committees (not just the types of records enumerated in the various subparagraphs of section 12(1)), qualifies for exemption under section 12(1).

It is possible that a record which has never been placed before an Executive Council or its committees may qualify for exemption under the introductory wording of section 12(1). This result will occur where a ministry establishes that the disclosure of the record would reveal the substance of deliberations of an Executive Council or its committees, or that its release would permit the drawing of accurate inferences with respect to the deliberations of an Executive Council or its committees.

I will now consider each of the subparagraphs the Ministry claims applies to the particular records.

### **Section 12(1)(a)**

The Ministry has exempted Record 93 (the e-mail portion), 121, and the remaining portion of Record 140 under section 12(1)(a). I agree. I find that disclosure of the information contained in these documents would reveal decisions of Cabinet with respect to compensation for individuals who contracted HIV through the blood supply.

### **Section 12(1)(b)**

The two criteria which the Ministry must satisfy in order to exempt a record under this section are:

1. the record must contain policy options or recommendations; **and**
2. the record must have been submitted or prepared for submission to the Executive council or its committees.

[Order 73]

The Ministry has claimed that this section applies to exempt Records 96, 120, 128, 131, 132, 146, 148, 150, 151, 152, 155, 156, 158 and 164 from disclosure.

Records 96, 146, 148, 150, 151, 152, 155 and 156 are draft Cabinet submissions.

Records 128 and 131 are finalized Cabinet submissions.

Record 120 and 132 are briefing notes prepared for Cabinet's Policy and Priorities Board regarding compensation for people infected with HIV through the blood supply. The Ministry states that these documents were prepared because Cabinet asked for specific information in response to its questions about a submission previously submitted for its consideration. Record 164 is a briefing note prepared for the Cabinet Committee on Social Policy about Ontario assistance for persons with HIV infected from the blood supply.

Record 158 is an e-mail which reflects the contents of two of the Cabinet submissions previously referred to.

All of these documents contain policy options or recommendations, and, in some cases, both. In addition, they were all prepared for submission and, in the case of Records 128 and 131, in fact submitted to the Executive Council or one of its committees. Accordingly, I find that they all qualify for exemption pursuant to section 12(1)(b) of the Act.

#### **Section 12(1)(d)**

The Ministry claims that Record 94 is exempt under section 12(1)(d) of the Act. This document is a briefing note prepared by counsel for the then Minister of Health on the status of and issues related to the MPTAP negotiations. It includes a reference to discussions between Ministry staff and the Attorney General on a particular issue. I find that this document reflects consultation between the Ministry of Health and the Attorney General on a matter relating to the government's decision on the scope of the MPTAP. Therefore, it is exempt under section 12(1)(d) of the Act.

#### **Section 12(1)(e)**

The Ministry has exempted Record 149 under section 12(1)(e) of the Act. This document is an e-mail from the Ministry Corporate Policy Secretariat Manager to a corporate policy analyst about the briefing note he prepared for Cabinet's Policy and Priorities Board. The Ministry does not submit, nor is there anything on this document, to indicate that it was prepared to **brief a minister of the Crown**. Moreover, I find that section 12(1)(e) does not apply to this record because the use of the present and future tense which precludes its application to records which have already been presented or dealt with by the Executive Council or its committees (Orders 22 and 40).

However, I have also considered whether any of the other sections or the introductory wording of section 12(1) applies. The e-mail comments on three specific passages dealing with recommendations in a Policy and Priorities Board paper. The paper itself is Record 120 and 132 (later version) which I have found to be exempt under section 12(1)(b). Disclosure of the e-mail would reveal the substance of the deliberations of the Policy and Priorities Board as set out in the briefing note. Therefore, I find that Record 149 is exempt pursuant to the introductory wording of section 12(1) of the Act.

## **SOLICITOR CLIENT PRIVILEGE**

The records remaining at issue which I will consider under this exemption are: 1, 3, 4, 6-8, 20, 21, 23, 25-27, 29-31, 35, 37, 38, 41, 42, 47, 55, 59, 60-69, 71, 82, 83, 109, 113, 116, 122, 136, 153, 154, 157 and 162.

Section 19 of the Act states:

A head may refuse to disclose a record that is subject to solicitor-client privilege or that was prepared by or for Crown counsel for use in giving legal advice or in contemplation of or for use in litigation.

Section 19 consists of two branches, which provide an institution with the discretion to refuse to disclose:

1. a record that is subject to the common law solicitor-client privilege (Branch 1);  
and
2. a record which was prepared by or for Crown counsel for use in giving legal advice or in contemplation of or for use in litigation (Branch 2).

In order to be subject to common law solicitor-client privilege, it must be established that there is:

1. a written or oral communication; **and**
2. the communication must be of a confidential nature; **and**
3. the communication must be between a client (and his agent) and a legal advisor;  
**and**
4. the communication must be directly related to seeking, formulating or the giving of legal advice.

[Order 49]

The Ministry has described four different categories of records for which it claims that both branches of this exemption apply. There appear to be some inconsistencies and overlap in the categories of records described by the Ministry. Accordingly, for ease of analysis, I have regrouped the records, following the general outline suggested by the Ministry, but placing each record in the most appropriate category. I will deal with each of these in turn.

**(1) Communications To and From Ministry Legal Branch Counsel and Staff**

Records 1, 3, 4, 6, 20, 21, 23, 29, 30, 38, 55, 68, 109, 153, 154 and 162

The Ministry submits that these documents are exempt from disclosure as they satisfy the criteria of part one of the common law solicitor-client privilege and/or the criteria of Branch 2.

Having reviewed these records, I make the following findings:

1. Records 1, 3, 6, 20, 21, 23, 29, 30, 55, 68, 109, 153, 154 and 162 are exempt under Branch 2 because they were all prepared by or for Crown counsel for use in giving legal advice to the Deputy Minister and/or Minister on how Ontario should respond to the issues involved in the HIV compensation.
2. Record 38 consists of copies of messages to a Ministry policy analyst and an individual in the Population and Community Services system group. The messages address the issue of whether the Minister should meet with representatives of one of the affected parties. A letter requesting such a meeting is attached to the messages. This affected party has consented to the disclosure of any information which may affect its interests.

I find that Record 38 is not a confidential communication between a solicitor and a client directly relating to the seeking, formulating or giving of legal advice. Nor can it be said to have been prepared by or for Crown counsel for use in giving legal advice. Accordingly it does not qualify for exemption under section 19 of the Act and should be disclosed to the appellant.

**(2) Communications Between the Ministry and the Ministry of the Attorney General**

Records 7, 8, 25, 26, 27, 35, 59, 63, 69, 71, 82, 83, 116 and 157

The Ministry submits that these records were created as a result of the solicitor-client relationship that existed between the Ministry of the Attorney General and the Ministry, or were prepared by Crown counsel for use in giving legal advice or in contemplation of or for use in litigation. Counsel for the Ministry of the Attorney General were involved in providing legal advice on the civil suits in which the Queen in the Right of Ontario was named as a defendant and acting as counsel representing Ontario in its dealings with the lawyers retained by the Province's insurers to defend these actions. In addition, counsel for the Ministry of the Attorney General provided legal advice to the Ministry on various issues related to the development of the MPTAP.

I have reviewed these records and considered the submissions of the parties. I make the following findings:

1. Records 7, 8, 25, 26, 27, 35, 69, 71, 83, 116 and 157 are exempt under Branch 1 (confidential communications between a solicitor and a client relating to the seeking or provision

of legal advice). In this case, counsel for the Attorney General were providing legal advice to and seeking instructions from their clients at the Ministry with respect to issues arising in the drafting and negotiations of the MPTAP, the impact of the MPTAP on litigation matters and insurance issues.

2. Records 59, 63 and 82 were prepared by or for Crown counsel for use in giving legal advice and, as such, are exempt under Branch 2 of section 19.

**(3) Communications Between the Negotiator and the Ministry/AG and other Provinces and Territories Copied to the Ministry**

Records 37, 41, 42, 47, 60, 61, 62, 64, 65, 66, 67, 113, 122 and 136.

As I indicated in the Background section of this order, the provinces and territories selected a negotiator whose responsibility it was to identify and contact all parties who might reasonably contribute to a potential settlement with persons infected with HIV through the blood system. The negotiator was to attempt to negotiate with these parties in order to obtain a financial contribution on their respective parts to a proposed settlement fund. The individual selected as the negotiator is a lawyer. He is also an experienced negotiator with expertise in insurance issues.

The issue which I must first determine is whether the negotiator functioned as a lawyer in this context such that he could be said to have provided “legal advice” for the purposes of the section 19 exemption. The purpose of the common law solicitor-client privilege, the basis for Branch 1 of this exemption, is to protect the confidentiality of solicitor-client relationships. In order for Branch 1 of this exemption to apply to a record, the person acting as a “solicitor” must be actually retained and functioning as such. The mere fact that an individual acting in some other capacity also happens to be a lawyer is not sufficient to raise the application of this privilege (Order P-1014).

The negotiator reported to and took instructions from the Steering Committee for the MPTAP, which included the Deputy Minister for Ontario.

Both the Ministry and the negotiator take the position that although the negotiator’s terms of reference, as set out in Record 93, do not specify that this individual need be a lawyer or indicate that he will be providing legal advice, in fact the negotiator was the solicitor for the provinces and territories with respect to the contributors.

The negotiator’s submissions state:

... The strategy and initiatives in connection with the establishment and operation of the fund and the Multi-Provincial Territorial Assistance Program all involved the consideration and application of legal principles and processes. In this regard all of the relevant communications by and with the Negotiator on the part of representatives of Governments ought to be interpreted as privileged solicitor and client communications.

Similarly, the Ministry submits that the negotiator's legal qualifications, experience and expertise were essential given the nature of the issues he dealt with. Furthermore, the Ministry points to references in several of the records in which the negotiator is referred to as the "solicitor" or "lawyer" for the provinces with respect to the contributors.

Based on the unique facts of this case, as set out in the submissions of the Ministry and the negotiator, I am satisfied that the negotiator was also functioning in the capacity of a lawyer, and providing legal advice to his clients, including the province of Ontario.

I will now consider the records the Ministry claims are exempt under section 19 as derived from the relationship between the negotiator and the provinces and territories.

Having reviewed these records, I make the following findings:

1. Records 37, 42, 47, 61, 64 and 136 are communications between the negotiator and counsel to the Ministry and the Attorney General. I find that these documents were prepared by or for Crown counsel for use in giving legal advice to her client, the province of Ontario. Accordingly, they are exempt under Branch 2 of section 19.
2. Records 41, 60, 62, 65, 66, 67, 113 and 122, include communications between the negotiator and the Ministry (ADM or policy) or other provinces (and copied to the Ministry). I find that these records are exempt under Branch 1 of section 19 as the common law solicitor client privilege applies.

**(4) Communications from Ministry Legal Branch Counsel to the Canadian Blood Agency and Saskatchewan Justice**

Records 4 and 31

Record 4 is a letter from Ministry counsel to the Canadian Blood Agency. The Agency acted as administrator of the MPTAP and of the compensation fund. The letter contains the legal advice Ministry counsel received from a lawyer with the Ministry of the Attorney General. The legal advice related to the manner in which the Canadian Blood Agency was to deal with certain matters arising out of the MPTAP.

As I indicated in the Background section of this order, the provinces of Ontario and Saskatchewan were both members of the Steering Committee. In addition, Saskatchewan Justice assumed the lead role in co-ordinating the legal advice and services, and, in particular, the drafting of the compensation agreements. As such, many drafts of the agreements and comments on the drafts were exchanged between the Crown solicitor at Saskatchewan Justice and counsel for the individual provinces, including Ontario. As part of this process, legal advice and opinions respecting the wording and terms and conditions of the agreement were provided to this solicitor by many parties, including Ministry counsel. Record 31 is one such document.



The relationship and interrelationship between counsel for all the provinces and territories and the Canadian Blood Agency are unique. All of these parties, including their counsel, were engaged in a common enterprise, the development and implementation of the MPTAP. In such situations, counsel must feel free to exchange legal opinions and advice without waiving solicitor client privilege. In effect, all the parties engaged in this enterprise may be considered to be the client group of all the counsel involved. Based on these circumstances, I find that Records 4 and 31 are exempt under section 19 of the Act.

To summarize, I find that Records 1, 4, 6-8, 20, 21, 23, 25-27, 29-31, 35, 37, 38, 41, 42, 47, 55, 59, 60-69, 71, 82, 83, 109, 113, 116, 122, 136, 153, 154, 157 and 162 are exempt pursuant to section 19 of the Act.

### **ADVICE AND RECOMMENDATIONS**

The Ministry claims that, of the records remaining at issue, Records 105, 117 and 145 are exempt under section 13(1) of the Act.

Section 13(1) of the Act states that:

A head may refuse to disclose a record where the disclosure would reveal advice or recommendations of a public servant, any other person employed in the service of an institution or a consultant retained by an institution.

It has been established in a number of previous orders that advice and recommendations for the purpose of section 13(1) must contain more than mere information. To qualify as “advice” or “recommendations”, the information contained in the records must relate to a suggested course of action, which will ultimately be accepted or rejected by its recipient during the deliberative process.

In Order 94, former Commissioner Sidney B. Linden commented on the scope of the exemption under section 13(1) of the Act. He stated that “[t]his exemption purports to protect the free flow of advice and recommendations within the deliberative process of government decision-making or policy making”.

Record 105 is a briefing note prepared by a Ministry policy analyst for the Minister’s meeting with an association with an interest in the MPTAP. The Ministry submits that the portion of this record including the draft recommended questions and answers, which have yet to be finalized by the provinces, satisfy the section 13(1) exemption.

Previous orders of the Commissioner’s office have found that the response sections of briefing notes and/or issue sheets often do not qualify for exemption under this section because they constitute mainly factual material which does not fall within the deliberative process of government. In my view, Record 105 may be distinguished from these cases in that the information contained in this record constitutes advice which is in many cases contingent on the position which the Ministry and the government as a

whole will take with respect to the MPTAP and other issues surrounding compensation. Many of the suggested answers refer to responses to be developed with the assistance of the legal branch and have to accurately reflect the information in the agreement which had not been finalized at that time. In addition, there were several matters regarding the contribution fund which were in flux at the time of the drafting of the briefing note. Accordingly, I find that Record 105 constitutes recommendations which are part of the government's deliberative process involving HIV compensation and thus qualifies for exemption under section 13(1) of the Act.

Record 117 is a handwritten note prepared by a Ministry policy analyst. It includes a detailed financial summary of the options available on how to allocate the compensation fund monies to claimants. The last page of this document contains a list of items which applicants to the fund should be compensated for. The Ministry submits that this information was prepared to be included in briefing notes.

I find that disclosure of this record would reveal the recommendations given to the Minister as to how the fund monies should be allocated and thus is exempt under section 13(1) of the Act.

The portion of Record 145 at issue consists of a section on "Advice to the Minister" in which the author of the record clearly sets out his advice and recommendations with respect to how the government should deal with two of the issues involved with HIV health matters. This information is part of the deliberative process of government. I find that it qualifies for exemption under section 13(1) of the Act and should not be disclosed.

### **THIRD PARTY INFORMATION**

Of the remaining records, the Ministry submits that Records 44, 45, 101 and 108 are exempt under section 17(1) of the Act.

Section 17(1) of the Act states, in part:

A head shall refuse to disclose a record that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly, where the disclosure could reasonably be expected to,

- (a) prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
- (b) result in similar information no longer being supplied to the institution where it is in the public interest that similar information continue to be so supplied;
- (c) result in undue loss or gain to any person, group, committee or financial institution or agency;

...

For a record to qualify for exemption under section 17(1)(a), (b) or (c) the institution and/or the affected party must satisfy each part of the following three-part test:

1. the record must reveal information that is a trade secret or scientific, technical, commercial, financial or labour relations information; **and**
2. the information must have been supplied to the institution in confidence, either implicitly or explicitly; **and**
3. the prospect of disclosure of the record must give rise to a reasonable expectation that one of the harms specified in (a), (b) or (c) of section 17(1) will occur.

[Order 36]

For the purpose of this analysis, I will divide the records into the two groups set out by the Ministry. Group A is comprised of Records 44 and 45. These records are generally about negotiations with insurance companies and fractionators regarding the amounts and the terms of their contributions to the MPTAP. Group B, comprised of Records 101 and 108, relates to one of the affected parties and its insurer.

### **Group A**

Record 44 is a letter from the Assistant Deputy Minister to the president of an insurance company. Record 45 is the response to that letter with an attached memorandum concerning the issues raised in the Assistant Deputy Minister's letter.

The Ministry submits that these records contain the financial information of the insurance company and, in particular, the name of the contributor, the actual amount negotiated and the final contribution. Counsel for the insurance company implicitly adopts this position.

Previous orders of the Commissioner's office have defined financial information as information that relates to finance or money matters. Given that Records 44 and 45 contain references to specific monetary amounts which were actual liabilities incurred by the insurance company, I find that these records contain financial information for the purposes of section 17(1) of the Act. Thus part one of the test has been met.

Part two of the section 17(1) test requires that the information be supplied to the institution, either implicitly or explicitly in confidence. In addition, to satisfy this part of the test, it is not necessary to show that the record itself was supplied to the institution. The test will be satisfied if it can be shown

that the information contained in the record was originally supplied to the institution and that disclosure of the record would **reveal** the information originally supplied.

Record 45 was supplied to the Ministry by the insurance company. The information contained in Record 44 was originally supplied by the company to the Ministry. I also find that the information was supplied to the Ministry explicitly in confidence. It is clear from the submissions of the parties and the notations on the records that the contributors understood that their financial offers were made confidentially and would not be disclosed to even the other contributors. Therefore, I find that part two of the test has been met.

Counsel for the insurance company does not specifically indicate which of the section 17(1)(a), (b) and/or (c) harms could reasonably be expected to occur as a result of disclosure of this information. He does comment on the “chilling” effect which would result from requiring disclosure of this information, thereby implicitly raising the application of section 17(1)(b) of the Act (that disclosure could reasonably be expected to result in similar information no longer being supplied to the institution where it is in the public interest that similar information continue to be so supplied).

The Ministry submits that disclosure could put the insurer at a disadvantage in future negotiations with claimants who did not accept the compensation package offered by the MPTAP. The Ministry suggests that disclosing the amount of compensation the insurer was prepared to provide could be perceived as a quantification of their liability and thus claimants involved in litigation with the insurer could point to the compensation contribution as a benchmark for future awards. In my view, the Ministry is advancing an argument under section 17(1)(a).

The Ministry also suggests that there could be serious public relations ramifications from disclosure of the amount that the insurer contributed and/or the position it took during the negotiations. This argument appears to be related to the application of section 17(1)(c). However, counsel for the insurance company has not raised this concern, nor provided any evidence to support this argument. Therefore, I fail to see its relevance to the issue before me.

However, based on the submissions of the Ministry and counsel for the insurer, I accept that disclosure of Records 44 and 45 could reasonably be expected to result in the harms described in section 17(1)(a) of the Act. As all three parts of the section 17(1) test have been satisfied, these records are exempt.

## **Group B**

Record 101 is a letter from the president of an insurance company to the Deputy Minister. It includes a briefing note entitled “AIDS Compensation -Draft Document for Discussion”. This insurance company was the former insurer for one of the affected parties. The letter and briefing note detail the position of the affected party with respect to the negotiation of the compensation package.

Record 108 is a letter from the affected party to the Deputy Minister concerning compensation and litigation.

Counsel for the insurance company submits that the records reveal financial information as they contain the "... financial offers and payments of each of the contributors to the MPTAP fund". While certain records certainly contain such information, Records 101 and 108 do not. Neither of these documents refer to any monetary amounts whatsoever.

The Ministry submits that:

Although the content of these two documents is not overtly financial, the issue they address is the financial compensation of individuals who contracted HIV through the blood supply. This issue has obvious **financial implications** for the [affected party] and its insurer (emphasis added).

In Order 80, former Commissioner Sidney B. Linden stated that financial information refers to "... specific data on the use and distribution of money ...". In Order P-1039, Inquiry Officer John Higgins found that the dollar amount claimed by the appellant in a lawsuit was not "financial information" in the sense intended by section 17(1) because it did not describe any actual financial obligation, nor one that will necessarily ever come into existence. While some potential liabilities could well be considered financial information, in that case, Inquiry Officer Higgins found the connection between the dollar figure and any actual liability to be too remote.

In the case before me, the information at issue is even further removed from the nature of financial information described by Commissioner Linden. Accordingly, I find that the information contained in Records 101 and 108 is not of the type described in section 17(1) of the Act. As I have indicated, all three parts of the section 17(1) test must be satisfied before the exemption applies. Nonetheless, I will consider the application of parts two and three.

The second part of the test requires that the information be supplied to the Ministry by the affected party, either implicitly or explicitly in confidence. Based on the information provided by the Ministry and counsel for the insurance company, I am satisfied that this information was provided to the Ministry in confidence.

As far as the third part of the test is concerned, the Ministry submits that disclosure of these records could undermine the position of the affected party and its insurer in settling the outstanding litigation. It implicitly raises the application of section 17(1)(a) of the Act. Counsel for the insurer reiterates these concerns by stating that "... Disclosure of this financial information would be highly prejudicial to the contributors ...". This reference to "financial information" is to counsel's statement that the records contain the "financial offers and payments of each of the contributors". As indicated, Records 101 and 108 do not contain this type of information.

The Ministry also suggests that the harms described in section 17(1)(b) could reasonably be expected to result from disclosure of these records. That is, disclosure could result in similar information no longer being supplied to the Ministry where it is in the public interest that similar information continue to be so supplied. I do not accept this submission for two reasons.

First of all, the information contained in both records indicates that it was in the interests of the affected party and its insurer to provide this information to the Ministry. Secondly, as this argument has not been raised by counsel for the insurer, I have been provided with no evidence to indicate that such information would not be supplied in the future.

In my view, neither the submissions of the Ministry nor those of counsel for the insurer have provided sufficient evidence to allow me to conclude that disclosure of the information contained in Records 101 and 108 could reasonably be expected to result in any of the harms outlined in section 17(1) of the Act. Even if I had found that these records contain financial information, the information contained in these documents has been disclosed publicly in other forums and the position of the affected party with respect to compensation agreements was, in fact, adopted in the MPTAP. Thus, part three of the section 17(1) test has also not been satisfied.

As the Ministry has not claimed that any other exemptions apply to these records, they should be disclosed to the appellant.

## **INVASION OF PRIVACY**

Only Records 130 and 135 remain to be considered under this section.

Under section 2(1) of the Act, “personal information” is defined, in part, to mean recorded information about an identifiable individual, including any identifying number assigned to the individual and the individual’s name where it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual.

The Ministry does not specifically indicate what information in Record 130 constitutes personal information. However, my review of the document indicates that the cover page consists of notes describing the personal plans and contacts of the author of the document that bear no relationship to the content of the record on the subsequent pages. I find that this constitutes the personal information of the author of the record which is not at issue in this appeal. As I have indicated in my discussion of the late raising of discretionary exemptions, I am not prepared to consider the application of section 15 to this record. Accordingly, the numbered pages 1-5 of Record 130 should be disclosed to the appellant.

The information which has been severed from Record 135 consists of the number of individuals who have hemophilia and who have filed legal claims against the provinces and territories. The Ministry states that where the numbers are less than five in total per province, “... those numbers have been severed as the possibility exists for residual disclosure and consequently identification of these individuals”.

The Ministry submits that this severing is consistent with Policy 3-1-21 of its Manual of Corporate Policy Procedures regarding small cell counts and residual disclosure. The policy states:

When the processing of anonymized personal health information yields tabulations of less than five (5) in which a possibility exists that an individual person could be identified, such information will only be released to the 'agency' head or consultant/researcher and will not be included in the statistical report.

The Ministry further submits that:

The ministry considered it reasonable that, because so few cases have taken place in some jurisdiction, disclosure of the severed statistics could result in the identification of individuals who contracted HIV through the contaminated blood supply and who have or had claims against the provinces.

The Ministry correctly points out that this policy was upheld in Order P-644. In that order the information at issue was the classification of physicians practising certain specialities who also performed electrolysis. In that order, I referred to the Ministry's representations, which stated:

Physicians refer their patients to specialists and the fact that certain specialist [sic] also performed electrolysis was widely known. In addition, this information would be known to patients the specialist has treated. Therefore, these specialists can be identified in the public domain. The fact that there are so few in each speciality performing electrolysis would reveal or infer financial information about the individual specialists and must be severed under section 21 of the Act.

In Order P-230, Commissioner Tom Wright stated:

If there is a reasonable expectation that the individual can be identified from the information, then such information qualifies under subsection 2(1) as personal information.

Based on the submissions of the Ministry and adopting the test set out above, I concluded in Order P-644 that, given the small number of individuals and the nature of the information at issue, there was a reasonable expectation that the release of the information would disclose information about **identifiable** individuals. Accordingly, I concluded that the information at issue was personal information.

In this appeal, the Ministry argues that the numbers constitute personal information solely on the basis that they are in groups of less than five. Unlike the information provided in Order P-644, the Ministry has not indicated how disclosure of the fact that there was one hemophiliac in a particular province who contracted HIV and who made a claim could possibly result in the identification of that individual. For

example, for one of the provinces, the number of hemophiliac HIV infected individuals is the same as the number of such individuals who have filed a claim against the province. This number has been disclosed because it is greater than five.

In my view, disclosure of the information in Record 135 could not lead to a reasonable expectation that the individuals could be identified. Accordingly, I find that this document does not contain the personal information of any identifiable individuals. Therefore, section 21 has no application. Record 135 should be disclosed to the appellant in its entirety.

## **SUMMARY OF EXEMPTIONS**

The foregoing discussion includes a disposition on the disclosure of all of the records at issue. Therefore, the records for which the Ministry has claimed the application of section 18(1) of the Act have either been considered under another exemption or ordered disclosed, as section 18(1) was raised for the first time in the third index. Accordingly, I need not consider the application of this exemption.

The appellant did not claim that there was a public interest in the disclosure of these records. Therefore, I have not considered the application of section 23 of the Act.

## **REASONABLENESS OF THE SEARCH FOR RECORD 2**

Record 2 was listed in the first Index of Records provided to this Office by the Ministry as one of the records responsive to the request. However, a copy of this document was not actually forwarded to this office.

At that time, the Ministry indicated that this document had been reviewed by the Appeals Officer at its offices but had subsequently been lost or misplaced and could not be located.

Accordingly, in the Notice of Inquiry the Ministry was requested to provide the record or, in the alternative, provide an affidavit of search regarding the missing record. The appellant was also notified of this situation.

As this is a case in which the Ministry admits that it initially had the record but was unable to subsequently locate it, this is not a situation like the general “reasonable search” appeal in which an institution claims that responsive records do not exist.

Nonetheless, I believe that it is still my responsibility to ensure that the Ministry has made a reasonable effort to locate any records which have gone missing during the course of a request and/or an appeal. In such a case, it is my view that the Ministry must provide me with sufficient evidence to show that it has made a **reasonable** effort to locate any such records.

In its submissions, the Ministry has indicated that on several occasions, including during the preparation of its submissions, the Freedom of Information office conducted further searches of the copies of the



records it had made in an attempt to locate this document. The Ministry also indicates that staff in both its Freedom of Information and Legal Branches conducted a search of the original records. Despite these additional searches, the Ministry has not been able to locate Record 2.

Based on the information provided by the Ministry, I am satisfied that the Ministry has taken all reasonable steps to locate Record 2.

**ORDER:**

1. I uphold the decision of the Ministry to deny access to the following records:  
  
1, 3-12, 14 (the highlighted portions) 15-21, 23-37, 39-84, 85 (the highlighted portions), 87-88, 90-100, 103-105, 109-113, 115-118, 120-125, 127-129, 130 (the cover page), 131-133, 136, 137 (the highlighted portions), 138-146, 148-158 and 160-164.
2. I order the Ministry to disclose the following records to the appellant:  
  
13, 14 (the non-highlighted portions), 22, 38, 85 (the non-highlighted portions), 86, 89, 101, 102, 106-108, 119, 130 (pages 2-6 of notes), 135 and 137 (the non-highlighted portions).
3. I order the Ministry to send the records described in Provision 2 to the appellant by **April 4, 1996** and not before **March 30, 1996**.
4. In order to verify compliance with the provisions of this order, I reserve the right to require the Ministry to provide me with a copy of the records which are disclosed to the appellant pursuant to Provision 2.
5. I find that the Ministry's search for Record 2 was reasonable.
6. If the Ministry is unable to comply with Provision 3 of this order due to the current OPSEU strike, I order the Ministry to contact me through the Registrar of Appeals by **March 25, 1996** so that I may then consider any required adjustment to the compliance date(s) and respond accordingly with notice to all parties.

Original signed by: \_\_\_\_\_  
Anita Fineberg  
Inquiry Officer

\_\_\_\_\_ February 29, 1996

# APPENDIX A

## INDEX OF RECORDS

DOCUMENT NO.	DESCRIPTION	EXEMPTIONS OR OTHER SECTION(S) CLAIMED IN INDEX ONE	DECISION ON RECORD
1	. E-mail with attachments from David Bernstein to Mary Quick, February 28, 1994 (5 pages)	s. 19	Decision upheld
2	. E-mail with attachment from Katie Williams to Gilbert Sharpe, Bill Kennedy and Mary Quick, February 17, 1994 (2 pages)	s. 19	Record cannot be located
3	. E-mail from David Bernstein to Gilbert Sharpe, February 16, 1994 (1 page)	s. 19	Decision upheld
4	. Letter from Mary Quick to Mr. Phil Dresch, Canadian Blood Agency, December 16, 1993 (2 pages)	s. 19	Decision upheld
5	. Deputy Minister's Mail Action Cover Sheet, March 4, 1994 (1 page) . Fax cover sheet from Donald J. Philippon, Deputy Minister, Alberta Health to Margaret Mottershead, March 3, 1994 (1 page) . Draft letter from Shirley McClellan, Minister to Dr. R. Hutchinson, Canadian Blood Agency, undated (1 page)	s. 15	Decision upheld
6	. E-mail with attachments from Bill Kennedy to Mary Quick, March 24, 1994 (8 pages)	ss. 13, 19	Decision upheld
7	. Fax cover sheet from Ronald Ashman to Mary Quick, May 3, 1994 (1 page) . Letter from Ronald Ashman to Bill Kennedy, May 2, 1994 (3 pages)	s. 19	Decision upheld
8	. Fax cover sheet from Ronald Ashman to Bill Kennedy, March 18, 1994 (1 page) . Letter from Ronald Ashman to Bill Kennedy, March 18, 1994 (2 pages) . Letter from Ron Ashman to Michael Ennis, March 17, 1994 (4 pages) . Ontario Court Brief of Authorities (1 page) . Letter from Aslam Bhatti, Alberta Health to Ronald Ashman, March 17, 1994 (1 page) . Letter with attachment from Michele Smith to Michael Ennis, March 14, 1994 (4 pages) . Fax cover sheet from Ronald Ashman to Bill Kennedy, March 18, 1994 (1 page) . Fax cover	s. 19	Decision upheld

	sheet from Aslam Bhatti, Alberta Health to Bill Kennedy, March 17, 1994 (1 page)		
	. Letter from Aslam Bhatti, March 17, 1994 (2 pages)		
	. Letter from Aslam Bhatti to Ronald Ashman, March 17, 1994 (1 page)		
	. Minutes of the Teleconference of the Eligibility Committee to the MPTAP, March 9, 1994 (2 pages)		
	. Fax cover sheet from Michele Smith to Bill Kennedy, March 3, 1994 (1 page)		
	. Letter from a lawyer in a named law firm to Michelle Smith, March 1, 1994 (1 page)		
9	. Letter from Richard G. Hischebett, Saskatchewan Justice, March 8, 1994 (5 pages)	ss. 15, 19	Decision upheld
10	. Letter from Richard G. Hischebett, Saskatchewan Justice, March 9, 1994 (5 pages)	ss. 15, 19	Decision upheld
11	. Letter from Richard G. Hischebett, Saskatchewan Justice, March 4, 1994 (6 pages)	ss. 15, 19	Decision upheld
12	. Letter with attachment from Richard G. Hischebett, Saskatchewan Justice, March 8, 1994 (7 pages)	ss. 15, 19	Decision upheld
13	. Letter from Lorie Reznik, Canadian Blood Agency to Mary Quick, February 11, 1994 (1 page)	s. 19	Disclose in full
14	. Fax cover sheet from Lorie Reznik, Canadian Blood Agency to Mary Quick, February 9, 1994 (1 page)	s. 19	Disclose in part
	. Letter with attachment from an official of a named trust company to Lorie Resnick, February 8, 1994 (2 pages)		
15	. Memorandum with briefing note from Stephen Chase, Health and Community Services, New Brunswick to Deputy Ministers of Health, February 23, 1994 (7 pages)	ss. 13, 15	Decision upheld
16	. Fax cover sheet from Mary Quick to Aslam Bhatti, Alberta Health, August 26, 1993 (1 page)	ss. 15, 19, 21	Decision upheld
	. Handwritten letter from Mary Quick to Aslam Bhatti, August 26, 1993 (1 page)		
17	. Fax cover sheet from Cathy MacNutt, Deputy Minister of Health, Nova Scotia to Bill Kennedy, August 18, 1993 (1 page)	s. 15	Decision upheld
	. Blank Agreement (10 pages)		
18	. Three (3) blank Releases with attachment (9 pages)	ss. 15, 19	Decision upheld
	. Draft Release (2 pages)		
19	. Three (3) blank Releases (7 pages)	ss. 15, 19	Decision upheld
20	. E-mail from Gilbert Sharpe to Mary Quick, August	ss. 15, 18, 19	Decision upheld

	10, 1993 (1 page)		
21	. E-mail from Bill Kennedy to Gilbert Sharpe, Mary Quick, Gail Czukar, Janice Crawford, January 27, 1994 (2 pages)	ss. 15, 19	Decision upheld
22	. E-mail from Bill Kennedy to Michael Ennis, Mary Quick and Gail Czukar, January 12, 1994 (2 pages)	ss. 13, 18	Disclose in full
23	. Memorandum from Gail Czukar to Mary Quick, January 5, 1994 (5 pages)	ss. 18, 19	Decision upheld
24	. Letter with attachments from Saskatchewan Justice, December 6, 1993 (47 pages)	s. 15	Decision upheld
25	. Fax cover sheet from Ronald Ashman to Mary Quick, April 21, 1994 (1 page) . Letter from Ronald Ashman to Bill Kennedy, April 21, 1994 (2 pages)	s. 19	Decision upheld
26	. Fax cover sheet from Ronald Ashman to Mary Quick, April 19, 1994 (1 page) . Memorandum from Ronald Ashman to Michael Ennis, April 19, 1994 (2 pages)	s. 19	Decision upheld
27	. Fax cover sheet from Ronald Ashman to Mary Quick, April 20, 1994 (1 page) . Letter from Ronald Ashman to a lawyer in a named law firm, April 20, 1994 (2 pages)	s. 19	Decision upheld
28	. Fax cover sheet from Richard G. Hischebett, Saskatchewan Justice, February 24, 1994 (2 page) . Letter from a lawyer of a named association to Phil Dresch, Canadian Blood Agency, February 3, 1994 (2 pages)	ss. 15, 19	Decision upheld
29	. E-mail from Bill Kennedy to Mary Quick, January 28, 1994 (2 pages) . E-mail from Bill Kennedy to Gilbert Sharpe, Mary Quick, Gail Czukar, Janice Crawford, January 27, 1994 (2 pages) . E-mail from Gilbert Sharpe to Mary Quick, January 27, 1994 (1 page) . E-mail from David Bernstein to Gilbert Sharpe, January 28, 1994 (1 page)	s. 19	Decision upheld
30	. Letter with attachments from J. Michael Ennis to Bill Kennedy, January 6, 1994 (16 pages)	s. 19	Decision upheld
31	. Letter from Gail Czukar to Phil Dresch, Canadian Blood Agency and Richard G. Hischebett, Saskatchewan Justice, December 23, 1993 (2 pages)	s. 19	Decision upheld

32	. Letter from Richard G. Hischebett, Saskatchewan Justice to Robin Winters, Province of Manitoba, December 20, 1993 (2 pages)	ss. 15, 19	Decision upheld
33	. Letter with attachment from Richard G. Hischebett, Saskatchewan Justice, December 22, 1993 (5 pages)	s. 15	Decision upheld
34	. Letter from Mary Quick to Richard G. Hischebett, December 16, 1993 (4 pages)	ss. 15, 19	Decision upheld
35	. Fax cover sheet from Michele Smith to Gail Czucar, December 17, 1993 (1 page) . Letter from Michele Smith to Phil Dresch, Canadian Blood Agency, December 17, 1993 (3 pages) . Letter from Michele Smith to Allan Kirk, Ministry of Community and Social Services, December 17, 1993 (2 pages) . Letter from Michele Smith to Richard G. Hischebett, Saskatchewan Justice, December 17, 1993 (3 pages)	ss. 15, 19	Decision upheld
36	. Fax cover sheet from Aslam Bhatti, Alberta Health to Bill Kennedy, October 21, 1993 (1 page) . Letter with attachment from Aslam Bhatti, Alberta Health, October 21, 1993 (3 pages)	ss. 15, 19	Decision upheld
37	. Fax cover sheet from a lawyer in a named law firm to Mary Quick, December 14, 1993 (1 page) . Memorandum with attachment (Memorandum of Agreement) from a lawyer in a named law firm to some firms, December 14, 1993 (10 pages)	ss. 18, 19	Decision upheld
38	. Note from Michael Ennis to Bill Kennedy, December 20, 1993 (1 page) . Letter from the President and Chair of a named association to Ontario Health Minister Ruth Grier, November 24, 1993 (4 pages)	s. 19	Disclose in full
39	. Memorandum with attachment from Richard G. Hischebett, Saskatchewan Justice, December 13, 1993 (26 pages)	ss. 15, 19	Decision upheld
40	. Deputy Minister's Mail Action Document dated December 10, 1993 (1 page) . Fax cover sheet and letter from Donald J. Philippon, Deputy Minister, Alberta to Margaret Mottershead, December 9, 1993 (2 pages)	ss. 15, 19	Decision upheld
41	. Deputy Minister's Mail Action Document, November 26, 1993 (1 page) . Letter with attachment from Donald J. Philippon, Alberta Health to Deputy Health Ministers, November 26, 1993 (16 pages)	s. 19	Decision upheld
42	. Fax cover sheet from a lawyer in a named law firm	s. 19	Decision upheld

	to Mary Quick, November 25, 1993 (1 page)		
	. Letter with attachment from a lawyer in a named law firm to Mary Quick, November 25, 1993 (7 pages)		
43	. E-mail with attachment (briefing note) from Bill Kennedy to Michael Ennis, Mary Quick and Katie Williams, November 30, 1993 (4 pages)	ss. 15, 19	Decision upheld
44	. Letter from Michael Ennis to the President of an insurance company, November 26, 1993 (2 pages)	ss. 15, 17	Decision upheld
45	. Letter with attachment from the President of an insurance company to Michael Ennis, November 30, 1993 (2 pages)	s. 17	Decision upheld
46	. Letter with attachment from Richard G. Hischebett, Saskatchewan Justice, November 9, 1993 (17 pages)	ss. 13, 15, 19	Decision upheld
47	. Fax cover sheet from a lawyer in a named law firm to Mary Quick, November 22, 1993 (1 page)	s. 19	Decision upheld
	. Memorandum from a lawyer in a named law firm to Donald J. Philippon and Michael Ennis, November 22, 1993 (4 pages)		
48	. Letter from Phil Dresch, Canadian Blood Agency to Bill Kennedy, November 17, 1993 (4 pages)	s. 15	Decision upheld
	. Letter with attachment from Phil Dresch to Bill Kennedy, November 5, 1993 (6 pages)		
49	. Deputy Minister's Mail Action Document, September 28, 1993 (1 page)	s. 15	Decision upheld
	. Letter with attachment from Mary Collins, Federal Minister of Health to Hon. Ruth Grier, September 23, 1993 (4 pages)		
50	. Letter from Richard G. Hischebett, Saskatchewan Justice to Aslam Bhatti, Alberta Ministry of Health, November 1, 1993 (2 pages)	s. 15	Decision upheld
51	. Letter from Mary Quick to Richard G. Hischebett, Saskatchewan Justice, October 28, 1993 (3 pages)	ss. 15, 19	Decision upheld
52	. Letter with attachments from Richard G. Hischebett, Saskatchewan Justice, October 25, 1993 (31 pages)	ss. 15, 19	Decision upheld
53	. E-mail from Bill Kennedy to Michael Decter, October 7, 1993 (2 pages)	ss. 15, 19	Decision upheld
54	. Deputy Minister's Mail Action Document, October 8, 1993 (1 page)	ss. 13, 15, 19	Decision upheld
	. Fax cover sheet from Donald J. Philippon, Deputy Minister, Alberta Health to Michael Decter, October 7, 1993 (1 page)		
	. Letter with attachments from Donald J. Philippon,		

	Alberta Health to Deputy Minister of Health, October 7, 1993 (3 pages)		
55	. E-mail from Bill Kennedy to Mary Quick, October 7, 1993 (1 page) . E-mail from Charlotte Chen See to Bill Kennedy, October 1, 1993 (1 page) . Draft letter from Michael Decter to Donald J. Philippon, Alberta Health, October 7, 1993 (1 page)	ss. 15, 19	Decision upheld
56	. Letter with attachment from Mary Quick to Richard G. Hischebett, Saskatchewan Justice, September 30, 1993 (14 pages)	ss. 15, 19	Decision upheld
57	. Letter with attachments from Richard G. Hischebett, Saskatchewan Justice to Aslam Bhatti, Alberta Health, September 21, 1993 (19 pages)	ss. 15, 19	Decision upheld
58	. Fax cover sheet from Mary Quick to Aslam Bhatti, Alberta Health, October 5, 1993 (1 page) . Memorandum from Mary Quick to Michael Decter, October 5, 1993 (2 pages)	ss. 15, 19	Decision upheld
59	. Letter with attachment from Michele Smith to Willson A. McTavish, Office of the Official Guardian, Ontario, September 24, 1993 (20 pages)	s. 19	Decision upheld
60	. Deputy Minister's Mail Action Memo, September 27, 1993 (1 page) . Memorandum from a lawyer in a named law firm to four lawyers in other law firms, September 27, 1993 (2 pages) . Fax cover sheet from a lawyer in a named law firm to Michael Decter, September 27, 1993 (1 page)	s. 19	Decision upheld
61	. Fax cover sheet with handwritten note and attachment from a lawyer in a named law firm to Mary Quick, September 12, 1993 (5 pages)	s. 19	Decision upheld
62	. Letter with attachment from the President of an insurance company to a lawyer in a named law firm, September 15, 1993 (9 pages)	s. 19	Decision upheld
63	. Memorandum with attachment from Michele Smith to Mary Quick, September 28, 1993 (3 pages)	s. 19	Decision upheld
64	. Fax cover sheet from a lawyer in a named law firm to Mary Quick, September 15, 1993 (1 page) . Memorandum with attachment from a lawyer in a named law firm to Aslam Bhatti, September 15, 1993 (4 pages)	s. 19	Decision upheld
65	. Deputy Minister's Mail Action Document, October 12, 1993 (1 page)	s. 19	Decision upheld

	<ul style="list-style-type: none"><li>. Fax cover sheet from a lawyer in a named law firm to Ontario Deputy Minister of Health, October 12, 1993 (1 page)</li><li>. Letter from a lawyer in a named law firm to an insurance company, October 2, 1993 (2 pages).<ul style="list-style-type: none"><li>Letter from a lawyer in a named law firm to an insurance company, October 12, 1993 (2 pages)</li></ul></li></ul>		
66	<ul style="list-style-type: none"><li>. Deputy Minister's Mail Action Document, October 12, 1993 (1 page)</li><li>. Fax cover sheet from a lawyer in a named law firm to Ontario Deputy Health Minister, October 12, 1993 (1 page)</li><li>. Letter from a lawyer in a named law firm to a lawyer in another law firm, October 12, 1993 (2 pages)</li></ul>	s. 19	Decision upheld
67	<ul style="list-style-type: none"><li>. Fax cover sheet with typewritten message from a named law firm to Bill Kennedy, October 8, 1993 (2 pages)</li><li>. Memorandum from a lawyer in a named law firm to a lawyer in another law firm, October 6, 1993 (1 page)</li><li>. Memorandum from a lawyer in a named law firm to a lawyer in another law firm, October 4, 1993 (2 pages)</li><li>. Memorandum from a lawyer in a named law firm to a lawyer in another law firm, October 4, 1993 (2 pages)</li></ul>	s. 19	Decision upheld
68	<ul style="list-style-type: none"><li>. E-mail from Bill Kennedy to Michael Decter, September 22, 1993 (2 pages)</li></ul>	ss. 13, 19	Decision upheld
69	<ul style="list-style-type: none"><li>. Fax transmission sheet from Michele Smith to Mary Quick, September 16, 1993 (1 page)</li><li>. Letter from Michele Smith to Michael Ennis, September 16, 1993 (2 pages)</li></ul>	s. 19	Decision upheld
70	<ul style="list-style-type: none"><li>. Options sheet, undated (2 pages)</li></ul>	ss. 13, 15, 19	Decision upheld
71	<ul style="list-style-type: none"><li>. Fax cover sheet from Michele Smith to Mary Quick, September 13, 1993 (1 page)</li><li>. Memorandum with attachment from Michele Smith to Mary Quick, September 13, 1993 (3 pages)</li></ul>	s. 19	Decision upheld
72	<ul style="list-style-type: none"><li>. Letter with attachment from Aslam Bhatti to J. Bergman, S. Chase, R. Hischebett, B. Kennedy and M. Quick, September 9, 1993 (6 pages)</li></ul>	s. 15	Decision upheld
73	<ul style="list-style-type: none"><li>. Deputy Minister's Mail Action Document, August 30, 1993 (1 page). Fax cover sheet from Donald J. Philippon, Acting Deputy Minister, Alberta Health to Michael Decter, August 27, 1993 (1 page)</li><li>. Letter with attachments from Donald J. Philippon to</li></ul>	ss. 13, 15	Decision upheld



Deputy Ministers of Health, August 27, 1993  
(26 pages)

74	<ul style="list-style-type: none"> <li>. Deputy Minister's Mail Action Document September 3, 1993</li> <li>. Fax cover sheet from Donald J. Philippon, A/Deputy Minister, Alberta Health to Michael Decter, September 2, 1993 (1 page)</li> <li>. Letter with attachments from Donald J. Philippon to Deputy Ministers of Health, September 2, 1993 (7 pages)</li> </ul>	ss. 15, 19	Decision upheld
75	<ul style="list-style-type: none"> <li>. Briefing note, August 30, 1993 (2 pages)</li> </ul>	ss. 13, 15	Decision upheld
76	<ul style="list-style-type: none"> <li>. Deputy Minister's Mail Action Document, August 18, 1993 (1 page)</li> <li>. Fax cover sheet from Donald J. Philippon, A/Deputy Minister, Alberta Health, August 18, 1993 (1 page)</li> <li>. Letter from Donald J. Philippon to Deputy Ministers of Health, August 18, 1993 (5 pages)</li> </ul>	ss. 13, 15	Decision upheld
77	<ul style="list-style-type: none"> <li>. Options package (10 pages)</li> </ul>	ss. 13, 15	Decision upheld
78	<ul style="list-style-type: none"> <li>. Fax cover sheet from a lawyer in a named law firm to Michael Ennis, September 11, 1993 (1 page)</li> <li>. Letter from a lawyer in a named law firm to Michael Ennis, September 11, 1993 (2 pages)</li> <li>. Fax cover sheet from a lawyer in a named law firm to Michael Ennis, September 12, 1993 (1 page)</li> <li>. Handwritten letter from a lawyer in a named law firm to Provincial &amp; Territorial Deputy Ministers of Health, September 12, 1993 (1 page)</li> <li>. Letter from a lawyer in a named law firm to the President of a medical association, September 11, 1993 (2 pages)</li> <li>. Fax cover sheet with handwritten message from a lawyer in a named law firm to Michael Ennis, September 12, 1993 (1 page)</li> <li>. Letter from a lawyer in a named law firm to an insurance company, September 11, 1993 (2 pages)</li> <li>. Letter from an official of an insurance company to a lawyer in a named law firm, August 20, 1993 (2 pages)</li> </ul>	ss. 15, 19	
Dec isio n uph eld7 9	<ul style="list-style-type: none"> <li>. Memorandum from Mary Quick to Michele Smith, September 9, 1993 (2 pages)</li> </ul>	ss. 15, 19	Decision upheld
80	<ul style="list-style-type: none"> <li>. Deputy Minister's Mail Action Document,</li> </ul>	s. 15	Decision upheld

	<p>September 8, 1993 (1 page)</p> <ul style="list-style-type: none"><li>. Fax cover sheet from Donald J. Philippon, A/Deputy Minister, Alberta Health to Michael Decter, September 7, 1993 (1 page)</li><li>. Letter with attachments from Donald J. Philippon to Deputy Ministers of Health, September 7, 1993 (9 pages), September 8, 1993 (4 pages)</li></ul>		
81	<ul style="list-style-type: none"><li>. Deputy Minister's Mail Action Document, September 9, 1993 (1 page)</li><li>. Fax cover sheet from Donald J. Philippon, A/Deputy Minister, Alberta Health to Michael Decter, September 9, 1993 (1 page)</li><li>. Letter with attachments from Donald J. Philippon to Deputy Ministers of Health, September 8, 1993 (4 pages)</li></ul>	ss. 13, 15	Decision upheld
82	<ul style="list-style-type: none"><li>. Fax cover sheet from M. Smith to Mary Quick, September 10, 1993 (1 page)</li><li>. Letter with attachments from Willson A. McTavish, Official Guardian, Ontario to Michele Smith, September 9, 1993 (8 pages)</li></ul>	s. 19	Decision upheld
83	<ul style="list-style-type: none"><li>. Letter from T.H. Wickett, Ministry of the Attorney General to Mary Quick, August 31, 1993 (2 pages)</li></ul>	s. 19	Decision upheld
84	<ul style="list-style-type: none"><li>. Deputy Minister's Mail Action Document, August 16, 1993 (1 page)</li><li>. Letter with attachments from Donald J. Philippon, Alberta Health to Deputy Minister of Health, August 13, 1993 (18 pages)</li></ul>	ss. 15, 18	Decision upheld
85	<ul style="list-style-type: none"><li>. Fax cover sheet with message from the President of a named association to Michael Decter, August 10, 1993 (1 page)</li><li>. Letter from the President of a named association to Ontario Health Minister Ruth Grier, August 10, 1993 (6 pages)</li></ul>	ss. 13, 18, 21	Disclose in part
86	<ul style="list-style-type: none"><li>. E-mail with attachment from Mary Quick to M. Decter, P. Bishop, M. Ennis, G. Sharpe, B. Kennedy, August 10, 1993 (4 pages)</li></ul>	ss. 13, 19	Disclose in full
87	<ul style="list-style-type: none"><li>. Deputy Minister's Mail Action Document, August 4, 1993 (1 page)</li><li>. Fax cover sheet and letter from Aslam Bhatti, Alberta Health to the President of a named association, July 30, 1993 (2 pages)</li></ul>	s. 15	Decision upheld
88	<ul style="list-style-type: none"><li>. Handwritten memo with attachments from Bill Kennedy to G. Sharpe, M. Quick, M. Smith, August 5, 1993 (9 pages)</li></ul>	ss. 13, 15	Decision upheld

89	. Letter with attachment from the President of a named association to Ontario Health Minister Ruth Grier, August 5, 1993 (5 pages)	ss. 13, 18	Disclose in full
90	. Memorandum with attachment from Michael Ennis to Michael Decter, Margaret Mottershead, Mary Quick, Bill Kennedy, Patricia Bishop, Tina Jarvalt, July 30, 1993 (9 pages)	ss. 13, 15	Decision upheld
91	. Fax cover sheet from Aslam Bhatti, Alberta to Mary Quick, August 3, 1993 (1 page) . Memorandum with attachments from Donald J. Philippon, Alberta Health to Deputy Ministers of Health, July 29, 1993 (7 pages)	ss. 13, 15	Decision upheld
92	. Action Note from Michael Ennis to B. Kennedy, M. Quick, J. Browne, M. Decter, August 13, 1993 (1 page) . Letter from Shirley McClellan, Alberta Health Minister to New Brunswick Health Minister Russell H.T. King, July 20, 1993 (1 page) . Minister's Mail Action Document, August 3, 1993 (1 page)	s. 15	Decision upheld
93	. Fax cover sheet from Donald J. Philippon, Alberta Health to Michael Decter, July 13, 1993 (1 page) . Letter from Donald J. Philippon to Deputy Ministers of Health with attachments, July 13, 1993 (18 pages)	s. 15	Decision upheld
94	. Briefing Update for Minister on HIV Compensation, July 16, 1993 (3 pages)	s. 13	Decision upheld
95	. Deputy Minister's Mail Action Document, July 14, 1993 (1 page) . E-mail with attachments from Birthe Jorgensen to Gilbert Sharpe, Frank Williams, Mary Quick, July 20, 1993 (4 pages)	s. 15	Decision upheld
96	. Handwritten note on meeting with Chris Nasic, Michelle Smith, Leslie McLeod, Michael Ennis, Bill Kennedy, Gilbert Sharpe, July 8, 1993 (1 page) . Handwritten note with attachment (Ottawa Paper) from Bill Kennedy, undated (7 pages)	ss. 12, 13	Decision upheld
97	. Letter with attachment from Donald J. Philippon, A/Deputy Minister, Alberta Health to Deputy Ministers of Health, July 2, 1993 (6 pages)	s. 15	Decision upheld
98	. Memorandum with attachment from Mark Sadowski to M. Mottershead, C.A. Bigenwald, E. LeBlanc, M.C. Lindberg, Y. Drazin, P. Kendall, D. Bogart, P. Stuckless, S. Lane, R. Cohen, B. Jorgensen, J.	ss. 13, 15, 18	Decision upheld

Wong, P. McGee, C. Hayward, M. Quick, B.  
Kennedy, P. Gardner, D. Walker, L. Tennant, A.  
Barszczewski, J. Bartram, J. Coutu, K. Nau, E. Gold,  
June 30, 1993 (15 pages)

99	. HIV Compensation Issues (1 page)	s. 15	Decision upheld
100	. Deputy Minister's Mail Action Document, June 28, 1993 (1 page) . Letter with fax cover sheet from Donald J. Philippon, A/Deputy Minister, Alberta Health to Deputy Ministers of Health, June 25, 1993 (2 pages)	ss. 15, 17	Decision upheld
101	.. Action Note from Michael Ennis to Mary Quick, undated (1 page) . Letter with attachment (draft discussion document) from the President of an insurance company to Michael Decter, June 17, 1993 (5 pages)	s. 17	Disclose in full
102	. Minister's Mail Route Document, August 4, 1993 (1 page) . E-mail from Sheila Olley to Brian Dopking, July 29, 1993 (1 page) . Minister's Mail Route Document, July 29, 1993 (1 page) . Minister's Mail Route Document, July 28, 1993 (1 page) . Letter from the president of a named association to Ontario Health Minister Ruth Grier, June 16, 1993 (3 pages)	s. 17	Disclose in full
103	. E-mail from Bill Kennedy to Michael Ennis, Patricia Bishop, June Kirkou, Mary Quick, June 16, 1993 (1 page)	s. 15	Decision upheld
104	. Letter from Aslam Bhatti, Alberta to Provincial/Territorial Representatives, October 21, 1993 (1 page)	s. 15	Decision upheld
105	. Briefing Note, September 30 (9 pages)	s. 13	Decision upheld
106	. E-mail from Michael Ennis to Michael Decter, Bill Kennedy, Mary Quick, Patricia Bishop, November 1, 1993 (3 pages) . Article from National Blood/Plasma News, September 1993 (1 page) . Handwritten note from Bill to Aslam, November 2, 1993 (1 page)	s. 13	Disclose in full
107	. Extract from a brochure titled: Hemophilia Catastrophe Relief, A Social Priority (4 pages)	s. 13	Disclose in full
108	. Deputy Minister's Mail Action Document, April 26,	s. 17	Disclose in full

	1993 (1 page)		
	. Letter from an officer of a named association to Michael Decter (2 pages)		
109	. E-mail from Linda Barlow to Mary Quick, March 5, 1993 (1 page)	ss. 13, 19	Decision upheld
	. Priority Briefing with attachments (17 pages)		
110	. Letter from Josie Bergman to Aslam Bhatti, Alberta Health, September 17, 1993 (1 page)	s. 15	Decision upheld
111	. Draft letter from Michael Decter to Donald J. Philippon, Alberta Health, October 7, 1993 (1 page)	ss. 13, 15, 19	Decision upheld
	. E-mail from Bill Kennedy to Michael Decter, October 7, 1993 (2 pages)		
	. B.C.'s Rough Draft (2 pages)		
112	. Memorandum from Bill Kennedy to Aslam Bhatti and Phil Dresch, September 30, 1993 (6 pages)	s. 15	Decision upheld
113	. Fax cover sheet from a lawyer in a named law firm to Bill Kennedy, September 21, 1993 (1 page)	s. 19	Decision upheld
	. Letter from a lawyer in a named law firm to Bill Kennedy, September 21, 1993 (2 pages)		
114	. Appendix 1 - Chart - Assistance Package	ss. 12(1)(b),	Duplicate of
	. Benefits by Options, September 14, 1993 (1 page)	13(1), 18(1) (c), (d)	Appendix to Record 81
115	. Draft HIV - Assistance Program - Appendix I (4 pages)	ss. 12(1)(b), 15, 18	Decision upheld
116	. Fax cover sheet from Michele Smith to Bill Kennedy, September 9, 1993 (1 page)	s. 19 partial	Decision upheld
	. Letter with attachment from Michele Smith to Mary Quick, September 9, 1993 (3 pages)[newspaper article attachment disclosed]		
	. Fax cover sheet from Michele Smith to Bill Kennedy, September 9, 1993 (1 page)		
	. Letter with attachment from Michele Smith to a lawyer in a named law firm, September 9, 1993 (9 pages)		
	. Letter with attachment from Michele Smith to Mary Quick, September 9, 1993 (2 pages)		
117	. Handwritten note with attachment (3 pages)	ss. 13(1), 18(1)(e)	Decision upheld
118	. Deputy Minister's Action Document, August 16, 1993 (1 page)	s. 15	Decision upheld
	. Letter with attachment from Donald J. Philippon, Alberta Health to Provincial Deputy Ministers, August 13, 1993 (18 pages)		

119	. Appendix 2: A named association's request (2 pages)	s. 17(1)	Disclose in full
120	. Draft Briefing Note, July 7, 1993 (6 pages)	ss. 12(1)(b), (e), 13(1), 18(1)(e)	Decision upheld
121	. Briefing note for Cabinet, August 31, 1993 (6 pages)	ss. 12(1)(b), (e)	Decision upheld
122	. Deputy Minister's Mail Action Document, August 5, 1993 (1 page) . Fax cover sheet from a lawyer in a named law firm to Tina Jarvalt, July 30, 1993 (1 page) . Letter with attachment from a lawyer in a named law firm to Tina Jarvalt, July 30, 1993 (5 pages)	ss. 13(1), 18(1)(e), 19	Decision upheld
123	. Action request from Deputy Minister to Michael Ennis, August 19, 1993 (1 page) . Fax cover sheet with attachment from Donald J. Philippon to Michael Decter, August 18, 1993 (2 pages)	s. 15	Decision upheld
124	. Deputy Minister's Mail Action Document, August 5, 1993 (1 page) . Letter from a lawyer in a named law firm to Aslam Bhatti, August 5, 1993 (5 pages)	ss. 15, 19	Decision upheld
125	. Action request from Josee Coutu to Bill Kennedy, August 12, 1993 (1 page) . Fax cover sheet from Aslam Bhatti to Bill Kennedy, August 11, 1993 (1 page) . Minutes of Meeting, August 9, 1993 (10 pages)	s. 15	Decision upheld
126	. Handwritten note from Deputy Minister to Michael Ennis, August 16, 1993 (1 page) . Appendix 2 (3 pages)	s. 12(1)(e)	Duplicate of Record 125
127	. Fax cover sheet with attachments from Aslam Bhatti to Bill Kennedy, August 13, 1993 (4 pages)	s. 15	Decision upheld
128	. Cabinet Submission, June 14 (24 pages)	s. 12(1)(e)	Decision upheld
129	. Fax cover sheet with attachments from Aslam Bhatti to Bill Kennedy, August 12, 1993 (3 pages)	s. 15	Decision upheld
130	. Handwritten notes (6 pages)	s. 21(1) partial	Page 1: decision upheld  Pages 2-6: disclose in full
131	. Cabinet Submission, June 24, 1993 (29 pages)	ss. 12(1)(b), (e)	Decision upheld

132	. Briefing Note, July 9, 1993 (8 pages)	ss. 12(1)(b), (e)	Decision upheld
133	. Letter from Donald J. Philippon to all Deputy Ministers of Health, June 25, 1993 (1 page)	s. 15	Decision upheld
134	. Memorandum from Michael Decter to Donald J. Philippon, June 30, 1993 (3 pages)[ all disclosed except reference to Deputy's vacation]	s. 21(1) partial	Nothing at issue
135	. Action request from Patricia McGee to Bill Kennedy, April 28, 1993 (1 page). Letter with attachment from William Dobson of the Canadian Blood Agency to Patricia McGee, April 19, 1993 (2 pages)[all disclosed except numbers less than 5]	s. 21(1) partial	Disclose in full
136	. Letter with attachments from Michele Smith to the negotiator, August 4, 1993 (20 pages)	s. 19	Decision upheld
137	. Handwritten note (1 page) . Fax cover sheet from Ted Boyd to Bill Kennedy, June 21, 1993 (1 page) . Letter from the President of a named association to Ruth Grier, June 16, 1993 (3 pages) . Fax cover sheet from Ted Boyd to Bill Kennedy, June 6, 1993 (1 page) . Letter from the President of a named association to Ruth Grier, April 19, 1993 (2 pages) . Letter from the President of a named association to Ruth Grier, June 16, 1993 (5 pages) . Letter from the President of a named association to Ruth Grier, April 19, 1993 (2 pages)	ss. 13(1), 17(1)(a), (b), (c)	Disclose in part
138	. Interprovincial letter from Civil Law Division, Province of Saskatchewan with attachment, October 25, 1993 (31 pages)	s. 15	Decision upheld
139	. Presentation package on Options (37 pages)	ss. 13(1), 15, 18(1)(c)(d)	Decision upheld
140	. Confidential Briefing note dated June 17, 1993 regarding compensation package (4 pages)	s. 12(1)(c), 15	Decision upheld
141	. Letter to Donald J. Philippon, Alberta Health from N. Duane Adams Deputy Minister Saskatchewan Health, June 17, 1993 (2 pages)	s. 15	Decision upheld
142	. Briefing note prepared by Alberta Health re: positions on providing financial compensation, June 15, 1993 (6 pages)	s. 15	Decision upheld
143	. Letter to Mark Sadowski from Cecile Lord ADM - Alberta, June 4, 1993 (1 page)	s. 15	Decision upheld
144	. Mail Action Document and letter to all Deputy	s. 15	Decision upheld

Ministers of Health from Deputy Minister - Alberta,  
June 8, 1993 (6 pages)

145	. Action note from Mary Gawloski to Bill Kennedy, June 7, 1993 (1 page) . E-mail with attached draft briefings with handwritten notes, Bill Kennedy to various employees, June 3, 1993 (12 pages)[all disclosed except 1 page entitled "Advice to the Minister"]	s. 13 partial	Decision upheld
146	. Cabinet Submission - Assistance for persons HIV Infected from the Blood System, June 14, 1993 (29 pages)	s. 12(1)(b)	Decision upheld
147	. Mail Action Document with attachment . Letter from Benoit Bouchard to Ruth Grier, June 1, 1993 (10 pages)	s. 15	Non-responsive
148	. Excerpt from Cabinet Submission with handwritten notes of Bill Kennedy, June 9, 1993 (4 pages)	s. 12(1)(b)	Decision upheld
149	. E-Mail from Birthe Jorgensen to Bill Kennedy, June 7, 1993 (1 page)	s. 12(1)	Decision upheld
150	. Excerpt from cabinet submission with handwritten notes, June 7, 1993 (1 page)	s. 12(1)(b)	Decision upheld
151	. Draft briefing notes re: Cabinet Submission (2 pages)	s. 12(1)(c)	Decision upheld
152	. E-mail from Bill Kennedy to Michael Ennis, Birthe Jorgensen and Josee Coutu, June 8, 1993 re: cabinet submission (3 pages)	s. 12(1)(c)	Decision upheld
153	. Letter to Teri Kirk, Legal Services from M. Damania, Government Services re: draft minutes, January 15, 1992 (5 pages)	s. 19	Decision upheld
154	. Fax to Michele Smith, Ministry of the Attorney General from M. Damania, Government Services re: Haemophilias and the Red Cross, with attachment, October 26, 1992 (9 pages)	s. 19	Decision upheld
155	. Draft Communications Plan re: Cabinet Submission, June 4, 1993 (3 pages)	s. 12(1)(b)	Decision upheld
156	. Draft background work on Cabinet Submission with handwritten notes of Bill Kennedy, June 3, 1993 (14 pages)	s. 12(1)(b)	Decision upheld
157	. Information package faxed to Bill Kennedy from Ministry of the Attorney General, June 2, 1993 (18 pages)	s. 19	Decision upheld



158	. E-mail from Patricia Bishop to various employees re: meeting with a named association, May 28, 1993 (2 pages)	s. 13	Decision upheld
159	. E-mail with attachments (letter and draft briefing) from Marie Vacca to Bill Kennedy, April 29, 1993 (6 pages)	ss. 13, 18	Non-responsive
160	. Mail Action Document, May 11, 1993 (1 page) . Letter from New Brunswick Health Minister Russell H.T. King to Alberta Health Minister Shirley McLellan, April 26, 1993 (1 page)	s. 15	Decision upheld
161	. Fax cover sheet with attachment from Josie Bergman, Province of British Columbia to Bill Kennedy, February 16, 1994 (3 pages)	s. 15	Decision upheld
162	. Draft Priority Briefing, April 21, 1993 (7 pages) [all disclosed except portions of pp. 4-5 entitled "Status of HIV Litigation (Ontario)" and "MOH Legal Advice"]	s. 19 partial	Decision upheld
163	. Action memo from Michael Ennis to Mary Quick, undated (1 page) . Handwritten notes (2 pages)	s. 15	Decision upheld
164	. Priority Briefing, Cabinet Committees on Social Policy, June 17, 1993 (2 pages)	s. 12(1)	Decision upheld

**Please note:**

Individuals referred to by names in the index are those either in the ministries and other public agencies acting in their official capacities.

The term "partial" as used in the index indicates a severed record of which a portion has been disclosed already to the appellant.