



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

# **ORDER P-1267**

**Appeal P-9600251**

**Ministry of the Solicitor General and Correctional Services**



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## **NATURE OF THE APPEAL:**

The appellant submitted a request under the Freedom of Information and Protection of Privacy Act (the Act) to the Ministry of the Solicitor General and Correctional Services (the Ministry). The appellant, a former employee of the Ministry, indicated that he had filed a complaint under the Ontario Human Rights Code against the Ministry and requested information in order to prepare his case before the Ontario Human Rights Commission. He organized his request by date and itemized the occurrence reports, misconduct reports, duty rolls, memos, correspondence, log books, statements, interview notes, investigation reports and policy documents which he was seeking from the Ministry and the Toronto Jail, describing each item in very specific terms. The appellant numbered the 51 items he was requesting from 1-54 (numbers 17, 18 and 19 were not used) and enclosed a \$5 application fee with his request.

After reviewing the appellant's request, the Ministry concluded that the 51-part request was actually 39 different requests. The \$5 application fee paid by the requester was applied to Parts 1, 2 and 3 of his request, which the Ministry determined were reasonably related and constituted one request. The Ministry advised the appellant that in order to process the remaining requests, it would require 38 additional application fees (\$190). The appellant appealed the Ministry's decision to require additional application fees.

This office notified the appellant, the Ministry and Management Board of Cabinet of the appeal and provided them with the opportunity to submit representations on the issues identified in the notice. The appellant and the Ministry submitted representations. In its representations, the Ministry indicated that it had reviewed its initial subdivision of the appellant's request and concluded that it actually constituted 33 separate requests.

## **DISCUSSION:**

Section 24(1) of the Act provides:

A person seeking access to a record shall,

- (a) make a request in writing to the institution that the person believes has custody or control of the record;
- (b) provide sufficient detail to enable an experienced employee of the institution, upon a reasonable effort, to identify the record; and
- (c) at the time of making the request, pay the fee prescribed by the regulations for that purpose.

Section 48(1) of the Act provides:

An individual seeking access to personal information about the individual shall,

- (a) make a request in writing to the institution that the individual believes has custody or control of the personal information;
- (b) identify the personal information bank or otherwise identify the location of the personal information; and
- (c) at the time of making the request, pay the fee prescribed by the regulations for that purpose.

Section 5.2 of O.Reg.460, as amended, reads:

The fee that shall be charged for the purposes of clause 24(1)(c) or 48(1)(c) of the Act shall be \$5.

The Ministry devotes a significant portion of its representations to explaining how much time it will take Ministry employees to locate and retrieve the information requested by the appellant. In my view, the amount of search time required is not a relevant consideration when assessing application fees under the Act.

The Ministry also indicates that the administrative staff at the appellant's former work location is overburdened and will not be able to process the appellant's requests. This factor is not, in my view, relevant to the assessment of application fees.

The appellant submits that the Ministry's decision is not appropriate and that it is not in keeping with the intent or spirit of the Act. In his view, his letter represents a single request for 51 specific items which is appropriately covered by one request fee.

The appellant was an employee of the Ministry for 14 months during 1994 and 1995, and has requested records which relate to incidents which occurred during the period of his employment. He submits that all parts of his request are related to his experience of racial discrimination and harassment as an employee of the Ministry. The appellant indicates that he provided extensive details in his request in order to enable the Ministry to identify the particular records he was seeking, in keeping with the obligations placed on requesters under section 24(1)(b) of the Act.

The Ministry indicates that it considered dividing the request by date, by month, by record type, or by record location. The Ministry concluded that the most appropriate method by which to subdivide the request was by incident, and explains that there did not appear to be a significant overlap with respect to the subject content of the records requested.

In my view, the purpose and spirit of freedom of information legislation is best served when government institutions adopt a liberal interpretation of a request, and when requesters are specific about the records they seek, as opposed to requesting everything within a broad subject area.

In reviewing the Ministry's division of the request, it appears to me that if the Ministry processed each part of the request it has identified as being a separate request individually, the Ministry would be repeating search activities where, in my view, it would seem more efficient to conduct

one comprehensive search. As well, based on my review of the request, it appears that some areas of the Ministry may have already collected some responsive records together in one location in order to conduct internal investigations of the appellant's complaints and to prepare its own case before the Ontario Human Rights Commission.

Finally, in the circumstances of this appeal, I am satisfied that the requester could have submitted a broadly worded request which would have encompassed everything responsive to his request, with the exception of the last four items. Such a broadly worded request would have been, in my opinion, much more onerous for the Ministry to process, and would have resulted in the appellant being provided access to more records than he was interested in. In my view, the appellant has actually aided the Ministry's processing of his request by being specific about particular records he is interested in and the location of the information he is seeking. While the Ministry has indicated that the information will have to be collected from a number of different locations, these locations are, with one exception, all offices within the appellant's former work location (the only exception is noted as an alternate location to one within the appellant's former work location) or its storage facility.

Having carefully considered the appellant's request and the representations I have received, I find that Items 1-16 and 20-50 of the appellant's request all relate to incidents which occurred during the course of his employment and are connected to his discrimination complaint. These parts of his request are reasonably related and it is appropriate, in my view, to consider these items as comprising one request. Accordingly, the \$5 application fee paid by the appellant is sufficient to satisfy his obligations under the Act.

In reviewing the Ministry's categorization of the last four items of the appellant's request as three separate requests, I find that this categorization is reasonable, and the Ministry is entitled to require an additional \$5 application fee for each of these three requests before proceeding to process them.

## **ORDER:**

1. I order the Ministry to issue a decision in accordance with sections 26, 27, 28, 29, 48(2) and 57 of the Act in response to Items 1-16 and 20-50 of the appellant's request, treating the date of this order as the date of the request, and without requiring any further payment of an application fee.
2. I uphold the Ministry's decision to consider Item 51 as one request, Items 52 and 53 as one request, and Item 54 as one request, and to require payment of the \$5 application fee per request before processing each of these three requests under the Act.

Original signed by: \_\_\_\_\_

September 26, 1996

Holly Big Canoe  
Inquiry Officer