



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

ORDER P-1555

Appeal P-9700373

Ministry of the Solicitor General and Correctional Services



80 Bloor Street West,
Suite 1700,
Toronto, Ontario
M5S 2V1

80, rue Bloor ouest
Bureau 1700
Toronto (Ontario)
M5S 2V1

416-326-3333
1-800-387-0073
Fax/Télé: 416-325-9195
TTY: 416-325-7539
<http://www.ipc.on.ca>

NATURE OF THE APPEAL:

The appellant made a request to the Ministry of the Solicitor General and Correctional Services (the Ministry) for certain identified manuals maintained by the Ministry's Centre of Forensic Sciences. The Ministry denied access to these manuals and the appellant appealed this decision. After an inquiry was conducted into the circumstances of this appeal, the Ministry was ordered to disclose the manuals to the appellant in Order P-1487.

The Ministry indicated that they would disclose the manuals upon payment of a \$69.80 fee. This fee was composed of only photocopying charges at twenty cents per page.

At the time the appellant appealed this fee decision he asked the Ministry to waive the fee. The Ministry declined to waive the fee.

A Notice of Inquiry was sent to the Ministry and the appellant. Representations were received from both parties.

DISCUSSION:

FEE ESTIMATE

The charging of fees is authorized by section 57(1) of the Act, which states:

A head shall require the person who makes a request for access to a record to pay fees in the amounts prescribed by the regulations for,

- (a) the costs of every hour of manual search required to locate a record;
- (b) the costs of preparing the record for disclosure;
- (c) computer and other costs incurred in locating, retrieving, processing and copying a record;
- (d) shipping costs; and
- (e) any other costs incurred in responding to a request for access to a record.

Section 6 of the Regulation also deals with fees. It states, in part, as follows:

The following are the fees that shall be charged for the purposes of subsection 57(1) of the Act for access to a record:

1. For photocopies and computer printouts, 20 cents per page.
- ...

The Ministry's fee estimate is as follows:

Photocopying 349 pages @ \$0.20 per page =	\$69.80
TOTAL	\$69.80

Photocopying

The Ministry has indicated to the appellant that a fee of \$.20 per page will be assessed for photocopying. In my view, this fee is appropriate in the circumstances.

FEE WAIVER

Fee waiver is provided for by section 57(4) of the Act, which states:

A head shall waive the payment of all or any part of an amount required to be paid under subsection (1) if, in the head's opinion, it is fair and equitable to do so after considering,

- (a) the extent to which the actual cost of processing, collecting and copying the record varies from the amount of the payment required by subsection (1);
- (b) whether the payment will cause a financial hardship for the person requesting the record;
- (c) whether dissemination of the record will benefit public health or safety; and
- (d) any other matter prescribed in the regulations.

Section 8 of Regulation 460 provides as follows:

The following are prescribed as matters for a head to consider in deciding whether to waive all or part of a payment required to be made under the Act:

1. Whether the person requesting access to the record is given access to it.
2. If the amount of a payment would be \$5 or less, whether the amount of the payment is too small to justify requiring payment.

Many previous orders have held that the onus is on the appellant to demonstrate that a fee waiver would be justified.

Public Interest

The appellant argues that disclosure of this information will benefit public health and safety. The appellant makes a convincing argument respecting why the information should be available. As a result of Order P-1487, they now are. I cannot agree, however, that the disclosure of these highly technical scientific manuals would yield a public benefit as it would neither disclose a public health concern nor contribute to the development of understanding of an important public health issue. Based on the test outlined in Order P-474, therefore, the appellant has not demonstrated that the dissemination of the record will benefit public health such that the Ministry would be obliged to waive the fee otherwise payable under section 57(1) of the Act.

ORDER:

I uphold the Ministry's decision.

Original signed by: _____
Holly Big Canoe
Inquiry Officer

_____ April 9, 1998