



**Information and Privacy
Commissioner/Ontario**

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

ORDER P-1591

Appeal P-9800060

Criminal Injuries Compensation Board



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NATURE OF THE APPEAL:

The Criminal Injuries Compensation Board (the Board) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for copies of all of the Board's rules, policies and procedures. The requester also asked for a certificate from the Board confirming that none of the records requested had been omitted. The Board identified its Policy Manual, Information Booklet and a copy of the Compensation for Victims of Crime Act (the CVCA) as the records responsive to the request and granted access to the requester. The Board also provided confirmation in writing that none of the records requested had been omitted. The requester appealed on the basis that these records were not responsive to his request.

This office provided a Notice of Inquiry to the appellant and the Board inviting submissions on whether the records provided to the appellant were responsive to his request. Representations were received from both parties.

DISCUSSION:

RESPONSIVENESS OF THE RECORDS

The Board has identified its Policy Manual, an Information Booklet and a copy of its enabling legislation as the records responsive to the request and has provided copies to the appellant.

The issue of the responsiveness of records was addressed and analysed by former Inquiry Officer Anita Fineberg in Order P-880. That order dealt with a re-determination of the issue of responsiveness following the decision of the Divisional Court in Ontario (Attorney General) v. Fineberg (1994), 19 O.R. (3d)197.

In that case, the Divisional Court characterized the issue of the responsiveness of a record to a request as one of relevance. In Order P-880, Inquiry Officer Fineberg noted the court's guidance and commented as follows:

In my view, the need for an institution to determine which documents are relevant to a request is a fundamental first step in responding to the request. It is an integral part of any decision by a head. The request itself sets out the boundaries of relevancy and circumscribes the records which will ultimately be identified as responsive to the request. I am of the view that, in the context of freedom of information legislation, "relevancy" must mean "responsiveness". That is, by asking whether information is "relevant" to a request, one is really asking whether it is "responsive" to a request. While it is admittedly difficult to provide a precise definition of "relevancy" or "responsiveness", I believe that the term describes anything that is **reasonably related to the request** [emphasis added].

I agree with Inquiry Officer Fineberg's approach and adopt it for the purposes of this appeal.

The request was for "a copy of all of the Board's rules, policies and procedures, and a certificate that there are none omitted."

The appellant submits that the records which he has received from the Board - the Policy Manual, Information booklet and the legislation - are not what he had requested and cannot be substituted for the rules and procedures. The appellant claims that he has been informed by "various agency personnel" that while these rules and procedures exist, they are not generally available to the public.

The Ministry relies on the interpretation in Order P-880 and submits that the records to which it has granted access are "reasonably related" to the request. The Board explains that its 43-page manual details the policies and procedures which the Board follows in interpreting the CVCA. Because the manual relies on and refers to the CVCA, the Board also provided a copy of the legislation to the appellant. The Board states that the 8-page Information Booklet is similar to the Policy Manual but is more user-friendly and prepared for the purpose of assisting applicants. The booklet contains a summary of the Board's most significant policies and an overview of the application process.

The Board submits that the Policy Manual, the Information Booklet and the copy of the legislation together are responsive to the request. The Board submits that a set of rules is in the process of being drafted but none have yet been adopted or published. The Board states that there is no other material at the Board which is responsive to the request.

I have reviewed the records in conjunction with the wording of the request and the representations of the parties. The booklet contains the highlights of the application process and is prepared as a guide for applicants. The Policy Manual is prepared for use, as a training and educational tool, by Board members and staff and contains the Board's mandate and service principles. The manual describes the various types of applications and hearings which form the Board's work and contains the specific procedures recommended to be followed in different case situations. It also details the policies underlying these procedures. The manual also contains a section on its appeal procedures, principles and interpretation and the structure and format of its orders.

In my view, the above described information in the records clearly qualifies as "the policies and procedures" requested by the appellant. At a minimum, I find that it is reasonably related to the "...policies and procedures" requested by the appellant. I also accept the Board's submissions that although separate rules are in the process of being drafted, they have not yet been approved or published. I find, therefore, that the records that have been provided to the appellant are responsive to the request.

ORDER:

I dismiss this appeal.

Original signed by: _____

Mumtaz Jiwan
Adjudicator

_____ June 30, 1998