

Information and Privacy Commissioner,  
Ontario, Canada



Commissaire à l'information et à la protection de la vie privée,  
Ontario, Canada

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## ORDER PO-3085

Appeal PA11-170-2

Ministry of the Attorney General

June 11, 2012

**Summary:** The appellant sought all of his personal information in the custody or control of the ministry. The appellant did not provide clarification of the request. This order upholds the ministry's decision that the appellant's request does not contain sufficient detail to enable the ministry to locate responsive records.

**Statutes Considered:** *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended, sections 24(1)(a), 24(1)(b), 24(2), 48(1), 48(2).

**Orders and Investigation Reports Considered:** Order P-33.

### OVERVIEW:

[1] The Ministry of the Attorney General (the ministry) received a request under the *Freedom of Information and Protection of Privacy Act* (the *Act*) seeking:

...a hard copy **itemized list** of all the personal information of [the requester], which the Ministry of Attorney General has in its possession or have carriage and control over, from the "**head**" of the Ministry of Attorney General in accordance with the ***Freedom of Information and Protection of Privacy Act*** R.S.O. 1990.

...a copy of all my personal information under the carriage and control of the Ministry of Attorney General from the "head", pursuant to the Freedom of Information given definition of "personal information" and in accordance with the *Freedom of Information and Protection of Privacy Act* R.S.O. 1990.

[2] The ministry issued clarification letters dated January 25, 2011 and March 8, 2011 indicating the following:

In order to provide access to a record, you must provide sufficient detail to enable an experienced employee, upon a reasonable effort, to identify the record. This letter is to advise that your request does not provide sufficient detail to enable me to locate or identify the records you have requested. I am writing to obtain more precise information. You may wish to consult the Directory of Records, which describes the records held by each branch of the ministry, at the website [www.cfipo.gov.on.ca](http://www.cfipo.gov.on.ca).

[3] In response, the requester resubmitted his original request.

[4] The ministry issued a decision letter on April 8, 2011 which referred to the two clarification letters previously issued.

[5] The requester, now the appellant, appealed the ministry's decision.

[6] During the course of mediation, the ministry explained that the appellant has not provided sufficient detail for it to locate or identify the requested records. Specifically, the ministry indicated that it would conduct a search for records if the appellant provides it with the names of program areas where he would like a search to be conducted, along with a time frame. The ministry suggested that the appellant consult the ministry's directory of records in order to identify the program areas in which he would like them to search.

[7] The parties were unable to resolve the appeal through the process of mediation and this file was transferred to the adjudication stage of the appeal process where an adjudicator conducts an inquiry under the *Act*. Representations were received from the ministry and the appellant and shared in accordance with section 7 of the IPC's *Code of Procedure and Practice Direction Number 7*.

[8] In this order, I uphold the ministry's decision that the appellant's request does not contain sufficient detail to enable the ministry to locate responsive records.

## **DISCUSSION:**

**What is the scope of the request? What records are responsive to the request?**

[9] Section 24 of the *Act* imposes certain obligations on requesters and institutions when submitting and responding to requests for access to records. This section states, in part:

- (1) 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;

...

- (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).

[10] Institutions should adopt a liberal interpretation of a request, in order to best serve the purpose and spirit of the *Act*. Generally, ambiguity in the request should be resolved in the requester's favour [Orders P-134 and P-880].

[11] To be considered responsive to the request, records must "reasonably relate" to the request [Orders P-880 and PO-2661].

[12] The ministry states that the appellant's request for a list of all of his personal information in the custody of the ministry is overly broad and fails to provide sufficient detail to enable it to locate the records he appears to be seeking. It states that despite its repeated attempts to clarify this request and obtain sufficient detail to conduct a search, the appellant has not provided any further detail.

[13] The ministry cites section 48(1) of the *Act*, which reads:

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. [Emphasis added by the ministry.]

[14] The ministry also relies on section 48(2), which provides that the access procedures set out in section 24(2) apply, with any necessary modifications, to requests for an individual's own personal information.

[15] The ministry also cites Order P-33, which involved a request to the Ministry of the Solicitor General for "all documents whatsoever related to and following up on exchanges concerning myself occurring in 1987 and 1988" between that ministry and the Northumberland County Social Services. In Order P-33, former Commissioner Sidney Linden made the following observations about the obligations of requesters and institutions under sections 47 and 48 of the *Act*:

It is clear from sections 47 and 48 of the Act that there is some obligation placed on a requester to provide as much direction to an institution as possible to where records he or she is requesting may be found and/or to describe the records sought. A requester's knowledge as to what records are in an institution's custody and control will vary.

A danger exists that, due to a lack of knowledge on the part of a requester, a record that would respond to his or her request may not be considered for release because it has not been identified by the requester with sufficient precision. A request for "all" information relating to a requester, held by an institution, is one example where there is a potential to frustrate the right to access provided for in the Act because a request for "all" information may not be sufficiently descriptive for the purposes of subsection 48(1), although an institution that is computerized and able to search its files using only a name may be able to answer the request. In the majority of these types of requests for "all" information, an institution is going to have to seek clarification from the requester in order to respond to the request.<sup>1</sup>

[16] Commissioner Linden held that "the request did not contain sufficient identifying information in the circumstances, since the organizational structure of the institution is large, comprising four main divisions and six affiliated agencies." This was despite the requester in Order P-33 having provided a specific date range and organization with which the exchange of information was said to have taken place.

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<sup>1</sup> IPC Order P-33

[17] The ministry further submits that the appellant's request is substantially broader than that in Order P-33 as the appellant has not included any subject matter, other than his identity, nor has he included a date range, a reference to any personal information bank or any other location where the information might be found.

[18] The ministry states that:

The appellant's request does not comply with the Act. He does not provide sufficient detail as required in section 24(1)(b), or sufficiently specific information as required in [section] 47(1)(b) of the Act, which would enable an experienced employee of the ministry to conduct a search for the records. Moreover, it does not identify the personal information bank or location where the information may be found as required in section 48(1)(b).

Without further clarification, the appellant's request would necessitate a search of the ministry in its entirety. As one of the largest ministries in the Government of Ontario with multiple branches, the ministry possesses large amounts of personal information in various areas. Such a comprehensive search for "all information" would be unwieldy and is not contemplated by the Act.

[19] The appellant submits that he should receive an itemized list of all his personal information which the ministry has possession of, carriage of or control over. He states that an itemized list would allow him to narrow the scope of his request and pinpoint the desired items for the purpose of enabling the ministry to search more efficiently.

### ***Analysis/Findings***

[20] I agree with the ministry that it has made substantial efforts to comply with its obligations under section 24(2) of the *Act*. The ministry's freedom of information branch has notified the appellant of the deficiencies in his request and made several attempts to clarify it. In particular, on January 25, February 23, and March 8, 2011, the ministry notified the appellant that it needed further detail in order to respond to his request and directed him to the website of the Directory of Records, which lists the types of personal information banks held by each program area. The appellant was also invited to call the analyst to discuss his request.

[21] The appellant has not provided the ministry with any further detail to enable a search to be conducted. In addition, he has not identified which personal information banks he is interested in having searched. He has not provided any subject matter for the searches or a date range for the documents he seeks. In response to the ministry's requests for clarification, the appellant reiterated his very broad request. In response

to the ministry's representations in this appeal, he still seeks a list of all of the records that contain his personal information that are in the ministry's custody or control.

[22] Although the appellant refers in his representations to the Crown's disclosure requirements in criminal court proceedings, the appellant's request is being made under the provisions of the *Act*. As stated in section 64(2), the *Act* does not affect the power of a court or a tribunal to compel the production of a document. Production of records in court proceedings by institutions is a separate and distinct proceeding from the process of disclosure of records under the *Act*.

[23] I find that the appellant has not provided sufficient detail or sufficiently specific information about the records he is seeking, or the personal information banks where they might be located. His request remains instead for "all information". I agree with the ministry that in the circumstances of this appeal, that the appellant's request is unwieldy and not in accordance with the obligations placed on requesters by the *Act*.

[24] The appellant has not complied with section 24(1)(b) of the *Act*, as he has not provided sufficient detail to enable an experienced employee of the ministry, upon a reasonable effort, to identify the responsive records. Accordingly, I am dismissing the appellant's appeal.

**ORDER:**

I uphold the ministry's decision and dismiss the appeal.

Original Signed by:  
Diane Smith  
Adjudicator

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June 11, 2012