

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER PO-3360-F

Appeal PA12-28

Ministry of the Attorney General

July 15, 2014

Summary: The appellant made a request to the Ministry of the Attorney General for records relating to its court interpreter accreditation program. The ministry issued a decision letter granting access to the responsive records in part, claiming that portions of these records were non-responsive to the request. The ministry also claimed the application of the discretionary exemptions in sections 13(1) (advice or recommendations), 15 (relations with other governments), and 19 (solicitor-client privilege), the mandatory exemptions in sections 17(1) (third party information) and 21(1) (personal privacy), and the exclusion in section 65(6)3 (labour relations and employment records) of the *Act* to deny access to the remaining information.

In Interim Order PO-3326-I, the adjudicator found that portions of the records which the ministry claimed to be non-responsive were, in fact, responsive to the request and that other portions of the records were not excluded under section 65(6)3 of the *Act*. In addition, she did not uphold the ministry's search. The adjudicator ordered the ministry to issue a new decision letter regarding certain records, and to conduct another search for responsive records.

The ministry subsequently conducted another search for records and issued a new decision letter to the appellant regarding the records it had previously classified as non-responsive to the request or excluded from the *Act*. As all of the outstanding order provisions were complied with, the appeal file is now closed.

OVERVIEW:

[1] This is the final order in this appeal, disposing of the remaining issues raised as a result of a request made to the Ministry of the Attorney General (the ministry) under the *Freedom of Information and Protection of Privacy Act* (the *Act*) for access to the following information:

- (1) Test score results, for all interpreters in Ontario who have completed the testing prepared by [the affected party], showing the individual's score on each area of the [affected party's] test (sight, consecutive and simultaneous) and the language(s) tested. The names of the individuals may be severed from the records and not disclosed.
- (2) Any reports, instructions, methodology or other materials provided to the persons who were responsible for scoring the [affected party's] tests that have been conducted.
- (3) Any reports, statistical analyses, studies or impact assessments prepared or conducted by or on behalf of [the ministry] concerning the interpretation of the testing results on the [affected party's] test, the appropriate cut-offs for full and conditional accreditation, the implications of the results of the testing conducted in 2009-2010, and/or the development of [the ministry] Court Interpreter Scheduling Protocol.
- (4) Any reports, statistical analyses, studies or impact assessments prepared or conducted by or on behalf of [the ministry] concerning the impact of the availability of accredited interpreters on criminal cases in Ontario, including data or analyses concerning adjournments, voir dres and other consequences arising from the lack of qualified court interpreters in Ontario.
- (5) All records or documents relating to the qualification of court interpreters subpoenaed or ordered to be produced by [the ministry] in any criminal case in Ontario since January 2009, along with the name and particulars of the case in which the records were ordered produced.
- (6) Any documents or records providing statistics as to the number of fully accredited and conditionally accredited interpreters available for each language in each geographic area in Ontario.

- (7) A copy of the Registry of Accredited Freelance Court Interpreters maintained by or available to [the ministry].

[2] The ministry conducted a search for responsive records, and issued a decision letter, granting access in part, claiming the application of the discretionary exemptions in sections 13 (advice or recommendations), 15 (relations with other governments), and 19 (solicitor-client privilege), the mandatory exemptions in sections 17 (third party information) and 21 (personal privacy), and the exclusion in section 65(6) (labour relations and employment records) of the *Act* to deny access to the remaining information. The requester (now the appellant) appealed the ministry's decision to this office.

[3] During the mediation of the appeal, several issues were discussed, including responsiveness of the records, the exclusions claimed and whether the ministry's search was reasonable. I subsequently conducted an inquiry under the *Act*, and issued Interim Order PO-3326-I on March 26, 2014, disposing of most of the issues raised. In addition to ordering the ministry to disclose certain records to the appellant, I ordered the ministry to issue a new decision letter and conduct another search for responsive records, as set out in order provisions 2, 3 and 4 below:

2. I order the ministry to issue a decision letter to the appellant with respect to pages 49-50, 64, 83, 91-93, 66-69, 72, 360-364, 378-379, 445-448, 451-453, 602, 611, 613, 744-745, 748 (except the first paragraph), 749-750, 756, 768-771, 799, 809-817, 824, 829-830, 848, 850-853, 911-916 and 926-1126 treating the date of this order as the date of the request. I have enclosed a copy of pages 911-916 and highlighted the portions that are not excluded under the *Act*.
3. I order the ministry to conduct a further search for records relating to the qualification of court interpreters subpoenaed or ordered to be produced by the ministry in any criminal case in Ontario since January 2009.
4. If, as a result of this further search, the ministry identifies additional records responsive to the request, I order the ministry to provide a decision letter to the appellant regarding access to these records in accordance with sections 26, 27 and 28 of the *Act*, treating the date of this order as the date of the request. I also order the ministry to provide me with a copy of any new decision letter that it issues to the appellant.

DISCUSSION:

[4] After the issuance of Interim Order PO-3326-I, the ministry wrote to the appellant and advised that it had conducted a further search for records, and located additional records which it numbered pages 1135-1162. However, it also advised that these records were created after the timeframe of the original request. The ministry also granted partial access to the records referred to in order provision 2. The ministry provided the appellant with copies of the records for which access was granted, as well as an index of records that set out which exemptions it claimed for the records, or portions thereof withheld. The appellant did not appeal this access decision.

[5] Consequently, I am satisfied that the ministry has complied with all of the order provisions in Interim Order PO-3326-I, and conclude that the remaining issues in this appeal have been disposed of. With respect to the records the ministry located in its subsequent search that are outside the timeframe of the request, I note that the appellant is free to make a further access request to the ministry in regard to those records.

Original Signed By:
Cathy Hamilton
Adjudicator

July 15, 2014