



Information and Privacy
Commissioner/Ontario

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

ORDER 197

Appeal 900294

Ministry of the Solicitor General



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/Télééc: 416-325-9195
TTY: 416-325-7539
<http://www.ipc.on.ca>

September 6, 1990

VIA COURIER

Appellant

Dear Appellant:

Re: Order 197
Ministry of the Solicitor General
Appeal Number 900294

On May 2, 1990, you submitted a request to the Ministry of Solicitor General (the "institution") under the Freedom of Information and Protection of Privacy Act, 1987, as amended, (the "Act"). You requested access to:

ALL information that you hold in your files pertaining to ANY and ALL investigations and inquiries ever completed by your department on me. I was charged with an Arson and related Fraud charges in connection with a house fire at ... Ontario, date of August, 78. I was also charged with several other charges by Metro Toronto Police Dept. between /79 and /83 and I understand that your department was assigned by the Attorney General of Ontario in late /89 to investigate some facet of my conviction on a charge of First Degree Murder. Please supply ANY and ALL information in regard to the charges stated above or any other investigation of which I was a subject. (sic)

Following the submission of your request, there were several letters between yourself and the institution which attempted to clarify your request.

On June 8, 1990, the institution advised you in writing that:

...the time [for responding to your request] has been extended in accordance with section 27 of the Act for an additional 90 days to September 6, 1990.

The reasons for the extension are

- necessitates numerous hours of search time, i.e. locating record, and would unreasonably interfere with the operations of the institution; and/or
- consultations cannot be completed within the time limit. (sic)

On June 21, 1990, you appealed the decision of the institution pursuant to subsection 50(1) of the Act. This subsection gives a person who has made a request for access to a record under subsection 24(1) or a request for access to personal information under subsection 48(1) a right to appeal any decision of a head of an institution under the Act to the Commissioner. Notice of the appeal was given to you and to the institution.

By letter of August 14, 1990, notice that I was conducting an inquiry to review the institution's decision was sent to you and the institution. Representations were requested from the institution as to the reasons and the factual basis for its decision to extend the time to respond to your request. You were also given an opportunity to comment on the issues raised by the appeal.

Only the institution provided representations, which I have reviewed and considered in making my Order.

The sole issue for me to determine in this appeal is whether the extension of time claimed by the institution as necessary to respond to your request is reasonable in the circumstances.

Subsection 27(1) of the Act states as follows:

A head may extend the time limit set out in section 26 for a period of time that is reasonable in the circumstances, where,

- (a) the request is for a large number of records or necessitates a search through a large number of records and meeting the time limit would unreasonably interfere with the operations of the institution; or
- (b) consultations that cannot reasonably be completed within the time limit are necessary to comply with the request.

Having carefully considered the institution's representations and in the circumstances of this appeal it is my view that the head's decision to extend the time for responding to your request is reasonable.

I order the institution to advise me in writing within 5 days of the date of its decision on access to the requested records, that it has given its decision to you. Said notice should be forwarded to the attention of Maureen Murphy, Registrar of Appeals, Information and Privacy Commissioner/Ontario, 80 Bloor Street West, Suite 1700, Toronto, Ontario, M5S 2V1.

Reasons for my decision in this appeal will only be provided upon receipt of a written request from either you or the institution. If a written request for reasons is not received by this office within 10 days of the date of this Order, no reasons will be provided. A request for reasons should be forwarded to the attention of Maureen Murphy, Registrar of Appeals, as noted above.

Yours truly,

Tom A. Wright
Assistant Commissioner

cc: The Honourable Steven Offer
Solicitor_General for the Province of Ontario

Ms Isabella McTavish
FOI Co_ordinator

ADDENDUM TO ORDER 197

Reasons for Decision

On September 6, 1990, I made an Order disposing of the issues raised in Appeal Number 900294 (Order 197) pursuant to the Freedom of Information and Protection of Privacy Act, 1987, as amended (the "Act"). In that Order, I found that the head's decision under subsection 27(1) of the Act to extend the statutory 30 day time limit for responding to the appellant's request, for an additional 90 days, was reasonable.

Full reasons for decision were not provided in the Order, however, the parties were provided with an opportunity to request reasons within 10 days of the date of the Order. On September 11 and September 14, 1990, the institution and the appellant respectively, submitted written requests for reasons. The following is the response to these requests.

Subsection 27(1) of the Act states as follows:

A head may extend the time limit set out in section 26 for a period of time that is reasonable in the circumstances, where,

- (a) the request is for a large number of records or necessitates a search through a large number of records and meeting the time limit would unreasonably interfere with the operations of the institution; or
- (b) consultations that cannot reasonably be completed within the time limit are necessary to comply with the request.

The institution argued the necessity for the time extension based on subsections 27(1) (a) and (b) of the Act.

In its representations, the institution indicated that the record consisted of 552 pages and the material making up the record, was stored in various locations throughout South-Central Ontario. It indicated that searches for the record were conducted at six different offices of the Ontario Provincial Police.

The institution further stated that 230 pages of the record were contained in handwritten, chronological notebooks prepared by investigating police officers. Specifically, the institution stated in its representations:

Once the record was retrieved from the branch's filing system it was reviewed to determine which officers were involved in the investigation. After these officers were identified they were contacted and asked to retrieve their notebooks relating to this investigation. At the Branch level these notebooks were reviewed again to isolate notes on the investigation. These pages of the notebook are then flagged for the use of FIPPA Services. FIPPA Services reviewed the notebooks and other records to determine if other records or notebooks should be included in the record. Based on this review field locations were asked to retrieve additional information.

Therefore, I was satisfied that the request was for a large number of records and that it necessitated a search through a large number of records. Further, the institution's representations persuaded me that meeting the statutory 30 day time limit to respond to the request, would unreasonably interfere with the operations of the institution.

The institution further submitted that three external offices, including the Royal Canadian Mounted Police, were consulted. The institution also indicated that it required a time extension to ensure it had accumulated the entire record prior to consultations commencing. I was satisfied that it was necessary for the head to conduct consultations which could not be completed within the statutory 30 day time limit.

On the basis of the foregoing, I concluded that the institution's time extension was reasonable.

Original signed by:
Tom A. Wright
Assistant Commissioner

September 28, 1990
Date