



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

ORDER P-1099

Appeal P-9500497

Ministry of the Solicitor General and Correctional Services



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NATURE OF THE APPEAL:

This is an appeal under the Freedom of Information and Protection of Privacy Act (the Act). The Ministry of the Solicitor General and Correctional Services (the Ministry) received a request for Ontario Provincial Police Media Relations News Releases (the news releases) for the period February 1, 1995 to March 31, 1995. The requester also specified that he wanted continuing access to the news releases on a bi-monthly basis for a period of two years, pursuant to section 24(3) of the Act.

The Ministry located all news releases covering the period identified in the request, and disclosed them to the requester. The Ministry informed the requester that continuing access to further news releases could not be granted because they are not the type of records covered by section 24(3).

The requester appealed the Ministry's decision to deny continuing access. A Notice of Inquiry was sent to the Ministry and the requester (now the appellant). Representations were received from the Ministry only.

PRELIMINARY ISSUE:

In April of 1994, the Office of the Information and Privacy Commissioner and the Freedom of Information and Privacy Branch of Management Board Secretariat jointly issued a paper entitled "Routine Disclosure/Active Dissemination (RD/AD)". This paper was directed to Freedom of Information and Privacy Co-ordinators in various provincial and municipal institutions and, in my view, the suggestions and practices outlined in this paper are relevant to the circumstances of this appeal.

As the paper points out, government organizations face a major challenge in meeting the public's growing need for information in a cost effective fashion. To satisfy this demand, the paper identifies a number of practices which encourage the routine disclosure and active dissemination of information.

As the paper points out:

There are numerous advantages to government promoting RD/AD. Not only will the public be better-served and better-informed, but the practices of RD/AD will be cost effective for government organizations as well. Processing requests and appeals within the confines of the Acts is more expensive and time consuming than having predictable access to pre-identified categories of records.

...

Good customer service should always be of primary importance whether requests for information are made formally or informally. The actual needs of the customer should be addressed to the extent possible. Anticipating the needs of the customer and making the information available in advance of a request is the ultimate objective for which government organizations should aim.

In his Notice of Appeal, the appellant states:

I have attempted to obtain News Releases directly from the OPP Media Relations office, but I have been advised . . . that your Fax distribution list is "Full". It should be noted that I do not mind receiving news releases hours later than released to other organizations (presumably when your fax distribution equipment would otherwise be idle), if this will help your equipment accommodate adding my listing to your distribution list. I would certainly revoke this request immediately if OPP Media Relations would simply provide the information to me instead.

In my view, news releases are one category of records which falls squarely within the scope of any RD/AD program. These records are produced exclusively for public use and are by their very nature "actively disseminated".

Although there is nothing to preclude a member of the public from making a request under the Act for access to news releases, in practical terms, this should not be necessary. In my view, the Ministry should consider alternative methods of providing access to news releases and thereby eliminate the need to dedicate increasingly scarce resources to processing requests and appeals for this type of record under the Act.

DISCUSSION:

Section 24(3) of the Act states:

The applicant may indicate in the request that it shall, if granted, continue to have effect for a specified period of up to two years.

The Ministry submits that news releases are not the type of records intended to fall within the scope of section 24(3). In support of its position, the Ministry relies on the following comments made by former Commissioner Sidney B. Linden in Order 164:

I am of the view that subsections 24(3) and (4) are intended by the Legislature to apply to the kind of record which is likely to be produced and/or issued in a series; for example, the results of public opinion polls which are conducted by an institution on a regular basis. These subsections are not intended to provide ongoing access to the kind of record of which only one edition is produced, as in the present case.

Having reviewed the Ministry's representations, I find that, if a formal request under the Act is necessary, news releases are the type of records appropriately included within the scope of section 24(3). In my view, they are produced on a frequent and regular basis and actively disseminated by the Ministry without the need to consider and apply any exemption claims included in the Act. Although the content of each news release is different, they are not different in type, and I can see no point in requiring the appellant to make periodic formal requests for access to these records, which would unquestionably result in unnecessary administrative costs.

Under the provisions of section 24(4) of the Act, once it has been determined that the appellant is entitled to access, it is up to the Ministry to provide the requester with a schedule showing when the request will be deemed to have been received again, and why those dates were chosen. Accordingly, the Ministry is required to provide a schedule of dates ending two years from the date of the original request on which the request shall be deemed to have been received again. The appellant has included a suggested schedule in his request letter. If the appellant is not satisfied with the schedule provided by the Ministry, he is entitled under section 24(4) to ask the Commissioner's office to review it.

ORDER:

1. I order the Ministry to provide the appellant with a schedule showing dates for two years following the date of his original request on which the request shall be deemed to have been received again in accordance with section 24(4) of the Act. This schedule is to be provided to the appellant by **February 1, 1996**.
2. In order to verify compliance with the provisions of this order, I reserve the right to require the Ministry to provide me with a copy of the schedule referred to in Provision 1.

Original signed by: _____ January 17, 1996
Tom Mitchinson
Assistant Commissioner

POSTSCRIPT

This order should in no way be interpreted as discouraging the Ministry and the appellant from agreeing on a procedure for providing routine access to news releases without recourse to the Act.