

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-4623

Appeal PA24-00492

Ministry of the Solicitor General

March 25, 2025

**Summary:** On April 2, 2024, an individual asked the Ministry of the Solicitor General for records regarding nurses from staffing agencies used in correctional facilities. They appealed because the ministry did not issue an access decision within the required time limit. The decision-maker finds that the ministry has not issued a decision and the request is deemed to have been refused. The ministry is ordered to issue a final access decision by April 8, 2025.

**Statutes Considered:** *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.3, as amended, sections 26 and 29.

### BACKGROUND:

[1] On April 2, 2024, the appellant filed an access request to the Ministry of the Solicitor General (the ministry) under the *Freedom of Information and Protection of Privacy Act* (the *Act*) for the amount of money spent to fill nursing shifts in correctional facilities with nurses from staffing agencies, as well as the worked hours of staff nurses and agency nurses.

[2] On August 21, 2024, the appellant submitted an appeal to the Information and Privacy Commissioner of Ontario (the IPC) when the ministry failed to issue a decision within 30 days of the access request. File PA24-00492 was opened.

[3] On December 9, 2024, I asked the ministry if it had issued its decision in response to the access request. I did not receive a response.

[4] On December 31, 2024, I emailed the ministry. The ministry confirmed receipt of the email and advised that a response would be provided.

[5] On January 9, 2025, I contacted the ministry once more and asked for a response by January 13, 2025, or I would issue a Notice of Expedited Inquiry. I did not receive a response.

[6] On January 21, 2025, I decided to conduct an inquiry and issued a Notice of Expedited Inquiry, encouraging the ministry to issue a final decision by February 10, 2025. A final decision was not issued by this date.

[7] On February 20, 2025, I contacted the ministry for an update. I did not receive a response.

[8] Considering the above, and to ensure there are no further delays in processing this access request, I will order the ministry to issue a final access decision to the appellant.

## **DISCUSSION:**

[9] Section 26 of the *Act* states:

Where a person requests access to a record, the head of the institution to which the request is made or if a request is forwarded or transferred under section 25, the head of the institution to which it is forwarded or transferred, shall, subject to sections 27, 28 and 57, within thirty days after the request is received,

(a) give written notice to the person who made the request as to whether or not access to the record or a part thereof will be given; and

(b) if access is to be given, give the person who made the request access to the record or part thereof, and where necessary for the purpose cause the record to be produced.

[10] The circumstances giving rise to a deemed refusal are set out in section 29(4) of the *Act*. This section states:

A head who fails to give notice required under section 26 or subsection 28(7) concerning a record shall be deemed to have given notice of refusal to give access to the record on the last day of the period during which notice should have been given.

[11] If a time extension is not issued, it is expected that, prior to the expiry of the 30-day time limit in section 26 of the *Act*, written notice will be given to the requester as to

whether access to the record or a part thereof will be given and for access to the record to then be given to the requester. This is referred to as a final access decision. If a final access decision is not issued prior to the expiry of the 30-day time limit, the institution would be in a “deemed refusal” pursuant to section 29(4) of the *Act*.

[12] The appellant requested records on April 2, 2024. The ministry did not request an extension of time to respond to the access request within the 30-day time limit. As of today, the ministry has not issued its final access decision despite the appellant filing an appeal and the IPC issuing a Notice of Expedited Inquiry, encouraging it to do so by February 10, 2025.

[13] Therefore, I find the ministry to be in a deemed refusal situation pursuant to section 29(4) of the *Act*.

[14] To ensure that there are no further delays, I will order the ministry to issue a final access decision to the appellant without recourse to any time extension under section 27 of the *Act*.

## **ORDER:**

1. I order the ministry to issue a **final** access decision to the appellant regarding access to the records in accordance with the *Act* without recourse to a time extension, by **April 8, 2025**.
2. To verify compliance, the ministry shall provide me with a copy by email of the decision referred to in provision 1 by **April 8, 2025**.

Original Signed by: \_\_\_\_\_  
Michael Cusato  
Case Lead

March 25, 2025 \_\_\_\_\_