

March 5, 2006



Dear 

Re: Freedom of Information Request – Our File No. 

Thank you for your request for information which was received in our office on February 6, 2006. You requested access to your investigations file.

I have made the following decision in response to your request for information made under the *Freedom of Information and Protection of Privacy Act*.

A search of records reveals that there are 213 pages of records responsive to your request. This includes computer records, all of which have been printed. I am enclosing 166 pages of these records, which are disclosable under the *Freedom of Information and Protection of Privacy Act*.

Unfortunately, I must deny you access to 47 pages of those records, relying on s.14(1)(b), s.14(1)(c) and s. 14(2)(a) of the *Freedom of Information and Protection of Privacy Act*. That is, I have concluded that the records to which you are seeking access are records to which the institution may deny access under the *Freedom of Information and Protection of Privacy Act* because they would interfere with an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result. I have also concluded that these are records which would reveal investigative techniques and procedures currently in use or likely to be used in law enforcement and the records constitute reports prepared in the course of law enforcement, inspections or investigations by an agency which has the function or enforcing and regulating compliance with a law.

Section 14(1)(a) of the *Freedom of Information and Protection of Privacy Act* permits an institution to refuse to disclose a record where the disclosure could reasonably be expected to “interfere with an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result.”

Section 14(1)(c) of the *Freedom of Information and Protection of Privacy Act* permits an institution to refuse to disclose a record where the disclosure

could reasonably be expected to “reveal investigative techniques and procedures currently in use or likely to be used in law enforcement”.

Section 14(2)(a) of the *Freedom of Information and Protection of Privacy Act* provides that a head may refuse to disclose a record that is “a report prepared in the course of law enforcement, inspections or investigations by an agency that has the function of enforcing and regulating compliance with a law”.

The investigations conducted by the Investigations Department of Legal Aid Ontario are “law enforcement matters” within the meaning of s.2(1) of the *Freedom of Information and Protection of Privacy Act*. “Law enforcement” is defined in (b) as “investigations or inspections that lead or could lead to proceedings in a court or tribunal if a penalty or sanction could be imposed in those proceedings”.

The Investigations Department may conduct investigations into the initial and continuing eligibility of legal aid applicants for legal aid services and into the conduct of lawyers performing those services. Section 41 of the *Legal Aid Services Act* requires applicants to provide financial information about their financial eligibility for legal aid. Sub-section 96(2) makes it an offence intentionally to provide false information or to fail to make full disclosure under s. 41.

It is the policy of the Investigations Department not to disclose material from their files which may interfere with their investigations, reveal their investigative techniques and procedures or constitute reports prepared in the course of their investigations. Routinely to disclose such information could interfere with the ability of Legal Aid Ontario to carry out its statutory mandate related to the enforcement of the *Legal Aid Services Act*.

The above are my reasons for denying you access, in part, to the records you requested under the *Freedom of Information and Protection of Privacy Act*. I recognize that, should an investigation result in a prosecution or in a hearing under the *Legal Aid Services Act*, other legal principles might come into play which might result in a different decision.

I am responsible for the decision to deny you access to the records. You may ask for a review of this decision within 30 days of receiving this letter by writing to: The Information and Privacy Commission/Ontario, 80 Bloor Street West, Suite 1700, Toronto Ontario M5S 2V1, Telephone 1-800-387-0073.

If you decide to request a review of this decision, please provide the Commissioner’s office with the following: the file number listed at the beginning of this letter; a copy of this decision letter; and a copy of the original request for information you sent to our institution.

In addition, you must send an appeal fee to the Commissioner's office. That appeal fee for information personal information is \$10.00.

I note your request that the material be faxed to you. Because of the volume and quality of the records, I regret that we are unable to comply with that request.

Yours truly,

Robert Ward
President/CEO