



LEGAL AID ONTARIO
AIDE JURIDIQUE ONTARIO

40 Dundas Street West, Suite 200, Toronto ON M5G 2H1
40, rue Dundas Ouest, bureau 200, Toronto ON M5G 2H1

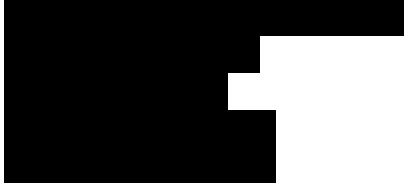
Toll free / Sans frais : 1-800-668-8258

Phone / Téléphone : 416-979-1446

Fax / Télécopieur : 416-979-7338

www.legalaid.on.ca

June 19, 2014



Dear [REDACTED]

Re: Access to Information Request No. [REDACTED] – Issue No. [REDACTED]

Thank you for your request for access to information, which was received in this office on May 7, 2014, along with the \$5 application fee.

You requested the following records:

“The following information regarding the following lawyers: (a) [REDACTED]
and, (b) [REDACTED]

- (1) Date of joining the refugee law panel
- (2) Date(s) of suspension(s) from the refugee law panel (if any)
- (3) Date of removal from the refugee law panel (if any)
- (4) Number of refugee law certificates from 2008 to present for which the lawyer served as counsel, broken down by calendar year, by country, and by type of certificate (e.g. RPD opinion, RPD hearing, JR opinion, etc)
- (5) Total amount of money paid to the lawyer by LAO in refugee law matters from 2008 to present, broken down by calendar year, and by country
- (6) Number of LAO funded former refugee law clients of the lawyer from 2008 to present who asked to change to another counsel, broken down by calendar year, and by country
- (7) Number of complaints to LAO made against the lawyer from 2008 to present, broken down by calendar year
- (8) Number of complaints to LAO made against the lawyer from 2008 to present that were referred by LAO to the Law Society of Upper Canada, broken down by calendar year.

I am unable to confirm or deny whether records exist which are responsive to your request. That is so because disclosure of that information, should it exist, would disclose personal information as defined under s.2 of FIPPA.

The definition of “personal information” in s.2 of FIPPA means recorded information about an identifiable individual, including:

(b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,

(f) the views or opinions of another individual about the individual.

Personal information is not subject to disclosure under s.21 of the *Freedom of Information and Protection of Privacy Act* (FIPPA). Section 21(1) states that a head shall refuse to disclose personal information to any person other than the individual to whom the information relates except in the following circumstances: (a) with the written consent of the individual to whom the information relates; (b) compelling circumstances affecting the health or safety of an individual; (c) the personal information has been specifically collected to create a record accessible to the general public; (d) disclosure is expressly permitted by statute; (e) for a research purpose if the disclosure is consistent with the conditions under which the information was collected; (f) disclosure does not constitute an unjustified invasion of privacy. None of these exemptions apply in this case.

In addition, section 21(3)(f) states that a disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy where the personal information describes an individual's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness. In accordance with 21(5), I am neither confirming nor denying that such records exist.

Furthermore, I am unable to confirm or deny whether records exist which are responsive to your request on the basis that disclosure of that information, should it exist, would disclose information relating to an investigation. Section 14(2)(a) of FIPPA states 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 which has the function of enforcing and regulating compliance with a law, with respect to items 2, 3, 6, 7 and 8. In accordance with s.14(3) of FIPPA, I am neither confirming nor denying whether a record to which s.14(2) applies exists.

I am also claiming the exemption under s.19(1) of FIPPA on the basis that the information sought under items 6,7 and 8 is subject to solicitor and client privilege. Section 89(1) of the *Legal Aid Services Act* (LASA) states that all legal communications between the Corporation, an officer or employee of the Corporation, an area director or member of an area committee and an applicant for legal aid services are privileged in the same manner and the same extent as solicitor-client communications. Communications about the quality of service, including applications to change solicitors, and complaints by applicants would be privileged under LASA, and are therefore not subject to disclosure under s.19(1) of FIPPA.

In the event that the above provisions of FIPPA are not applicable, I have concluded that all of the information in the request is subject to section 90 of the

Legal Aid Services Act (LASA) and is not subject to disclosure under the *Freedom of Information and Protection of Privacy Act (FIPPA)*, for that reason.

Section 90 provides as follows:

90.(1) A member of the board of directors, an officer or employee of the Corporation, an area director, a member of an area committee, a lawyer, a service-provider or a member, officer, director or employee of a clinic, student legal aid services society or other entity funded by the Corporation shall not disclose or permit to be disclosed any information or material furnished to or received by him or her in the course of his or her duties or in the provision of legal aid services.

(2) A person referred to in subsection (1) may disclose information or allow it to be disclosed in the performance of his or her duties or in the provision of legal aid services or with the consent of the applicant or if authorized by the Corporation.

The Information and Privacy Commissioner has stated in Order PO-2994 that section 90(1) of LASA is intentionally broad and is meant to capture all types and forms of information and materials, including records that originated with or were exchanged within LAO. It is submitted that records dealing with a complaint to Legal Aid Ontario regarding a panel lawyer are covered by s.90 of LASA and are excluded from the scope of FIPPA pursuant to s.67(2).

I am responsible for this decision. 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, 2 Bloor Street West, Suite 1400, Toronto Ontario M4W 1A8, 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. The appeal fee for general information is \$25.00.

Yours truly,

Robert W. Ward
President/CEO
Legal Aid Ontario