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December 2, 2014

[REDACTED]

Dear [REDACTED]

Re: Access to Information Request No. [REDACTED]

Thank you for your request for access to information, which was received in this office on November 3, 2014, along with the \$5 application fee.

You requested the following records:

“All records related to the removal of [REDACTED] from the panel of lawyers with Legal Aid Ontario that can represent refugee cases”.

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:

(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.

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 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).

Pursuant to FIPPA, I have been designated as the head of the institution and as such 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