ACCESS PROCEDURE

Under the Federal *Access to Information Act*

Making an Access Request

1. Requester must be Canadian citizen or permanent resident of Canada (s. 4.1), or be present in Canada (Extension Order, SOR/89-207)
2. Request shall be in writing, provide sufficient detail (s. 6);
3. Request must be accompanied by requisite fee (s. 11 ATIA, and s. 7 Regulations, SOR/ 83-507)

ACCESSPRIVACY BY OSLER

1

Does the head require an extension * beyond the 30-day time limit to respond?

YES

The Head of a government institution ("head") may extend the 30-day time limit for a reasonable period if:

(a) search involves large number of records,

(b) consultations are necessary, or

(c) notice is given to an affected third-party ("**3P**") under s. 27(1). [s. 9(1)]

Notice of extension must be given to requestor within 30 days, indicating length of extension and requester's right to complain to the Commissioner [s. 9(1)].

If the extension is more than 30 days, notice shall also be given to the Commissioner at the same time as the requester [s. 9(2)]

NO → 2

* If the head fails to give access within the time limit or extended time limit, the head shall be deemed to have refused access. [s. 10(3)]

2

Does the institution have custody or control of the requested record?

NO

ACCESS DENIED

The head shall give the requester notice of refusal and inform them of their right to complain to the Commissioner [ss. 7, 10]

YES

Is there another government institution with greater interest in the record? *

YES

The head may transfer the request to the other government institution within 15 days of receiving the request. [s. 8(1)]

In which case, the request is deemed to have been received by the other government institution on the same day as it was originally received by the transferring organization. [s. 8(2)]

→ 3

NO → 3

* Government institution with greater interest is the one that produced (or had produced) the record, or was the first one to receive it [s.8(3)]

3

Do exclusions and exemptions apply to the requested record? ss.13-26,68-69.1

YES

Is the exclusion/ exemption mandatory or discretionary?

If mandatory, can records be reasonably severed?

YES

Sever the records accordingly [s. 25]

PARTIAL RELEASE

The head shall give the requester notice of refusal to provide part of the record and inform them of their right to complain to the Commissioner [ss. 7, 10]

NO

ACCESS DENIED

The head shall give the requester notice of refusal and inform them of their right to complain to the Commissioner [ss. 7, 10]

NO

RECORDS RELEASED

If discretionary, will the head exercise discretion to release?

YES → 4

4

Would release or partial release affect the interest of a third party (3P) under section 20(1)?

YES

The head shall within 30 days of receiving access request (or within extended time limit, as applicable) provide written notice to the affected 3P informing them of the Head's intention to release the record(s) and inviting them to make written representations as to why the record(s) should not be released [s. 27]

3P has 20 days from the day notice is given to make written representations to the head as to why the record(s) should not be released [s. 28(1)(a)]

The head has 30 days from the day notice is given to decide whether to release the record(s) and must give written notice of decision to the 3P [s.28(1)(b)].

If head decides to release, head must inform the 3P that they have a right under s. 44(1) to seek court review of the head's decision within 20 days, and that if 3P does not do so, the head will release or partially release the record(s) to the requester [s. 28(3)]

Has the 3P made an application for court review within 20 days of receiving the head's notice under s. 28(1)(b)?

NO

The head must release the record(s) to the requester [s.28(4)]

YES

The head must inform the requester that the 3P is seeking court review of the head's decision to release and that requester has the right to appear as a party in the proceeding [s. 44(2)]

NO

RECORDS OR PARTIAL RECORDS RELEASED

If Head decides not to release records, must give requester notice of refusal and inform them of their right to complain to Commissioner [ss. 7, 10]