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Commissioner orders City of Toronto to release lawsuit information.

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Ontario Information and Privacy Commissioner Ann Cavoukian has ordered the City of Toronto to provide CBC Radio-Canada with records related to civil lawsuits involving four city departments. In doing so, the Commissioner confirmed the importance of the province's access to information laws in supporting the principles of open and accountable government.

The city had denied a freedom of information request from the CBC, which was seeking records showing the number of lawsuits, dates settled and the costs, from 1998 through 2004, for the finance department (for the city as a whole), emergency medical services, Toronto fire services and transportation services. No personal information was requested.

After the city denied access to the records, the CBC appealed the city's decision to the Commissioner. (The city, in response to an earlier FOI request, had released records relating to lawsuits against the Toronto police.)

In her order, the Commissioner said she was not persuaded by the city's claim that disclosure of the information sought by the appellant could reasonably be expected to prejudice the economic interests of the city or be injurious to the financial interests of the city. As a result, she ordered that the information be disclosed.

In support of her decision, the Commissioner emphasized the importance of the disclosure of this type of information: "... citizens cannot participate meaningfully in the democratic process and hold politicians and bureaucrats accountable unless they have access to information held by government, subject only to necessary exemptions that are limited and specific. Ultimately, taxpayers are responsible for footing the bill for any lawsuits that the city settles with litigants or loses in the courts. Consequently, taxpayers have a right to know, at a minimum, how many lawsuits or claims have been filed against the city, and how much money the city has paid out in damages or in settling such matters in specific years."

"Without such information, citizens would be in the dark and have no meaningful way of scrutinizing whether the city is processing such claims in a financially responsible manner," added the Commissioner. "Nor would citizens have sufficient information to begin to assess whether the

conduct of the city may be contributing to the number of claims it receives.”

On the issue of the impact of disclosure on the economic interests of the city, the Commissioner made the following comments: “The release of claims information may, as the city points out, ‘spark widespread public debate and discussion,’ which may heighten citizens’ awareness about their legal rights. However, Ontario has a functional legal system for resolving disputes between plaintiffs and defendants. If the city settles claims or the courts find the city liable for damages in various legal proceedings, any adverse economic and financial consequences that may result, such as higher insurance premiums or loss of insurability, would have been caused by the city’s own conduct, not by the disclosure of general claims information under the *Act*.”

The Commissioner, however, singled out Toronto Mayor David Miller for praise. She cited his comments from an interview with CBC Radio on June 10, 2005: “Council recently gave direction to city staff to routinely disclose everything possible. That’s our obligation as a government, and if that’s not happening, it will change because that’s the philosophy that I believe in and that city council overwhelmingly believes in as well.”

The Commissioner urged the mayor to follow through on his commitment by ensuring that there is a shift in the city bureaucracy from a protective mindset to a culture of openness, noting that there appears to be a disconnect between the views held by elected officials and those held by bureaucrats.

The Commissioner’s order, [MO-1947](#), has been posted to the IPC’s website, www.ipc.on.ca.

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