Transcript Episode 13 Aaron Orban

Ron Kruzeniski:

Today is September 28th and it's a Right to Know Day and is in the middle of Right to Know Week. And it's an opportunity for those that are in the access to information world to focus on people's right to obtain information from the public bodies where taxpayer dollars are spent. I have the pleasure of talking to Aaron Orban, the Executive Director of the Access and Privacy branch of the Ministry of Justice. And he and his shop are responsible for the vast amount of processing of access to information requests for the Government of Saskatchewan. So it is my pleasure to welcome Aaron to have a chat on this particular day. Welcome Aaron, and I'd like to start by giving us a bit of your history and how you ended up being Executive Director of the Access and Privacy branch.

Aaron Orban:

Sure. It sounds good, Ron. Thank you for having me with you today. Yeah, so my history in terms of how I ended up in the world of access and privacy is a bit of a long and winding road. I've been with government for over 30 years. Started my career in the corrections field as a corrections worker out at the Regina Provincial Correctional Centre and then worked within the ministry for a number of years, primarily with young offenders. Till sort of the early two thousands when I made a bit of a career leap and actually worked for a couple years with your office as at that time we were called portfolio officers.

So that's how I got my feet wet in the world of access and privacy as what are now your analysts at the Information Privacy Commissioner's office. From there, I worked at the Ministry of Health for about a year in their privacy and policy shop, and then made the leap back into independent offices with Ombudsman Saskatchewan working there both on Ombudsman files and on public interest disclosure work for about five or so years. And then position came back up, the executive director position, the one that I'm in now with Justice and the access and privacy branch and threw my name into the ring and was fortunate enough to be chosen for this role.

Ron Kruzeniski:

Wow. And you've been in the role about how many years now?

Aaron Orban:

It is coming up on, I believe about seven years now, Ron.

Ron Kruzeniski:

Wow.

Aaron Orban:

Yeah, things have changed a little bit. We're a bigger branch than we used to be. We now also we're actually audit information management and safety, so the access and privacy branch has been kind of gobbled up within a greater risk management portfolio.

Ron Kruzeniski:

So I know that you do an annual report that sort of summarizes the number of access requests, how many are personal and how many are general, but I expect the public doesn't know the amazing number of access requests that are received in a year and the amazing number that are processed and people

get the information that they're asking for. Can you give us some idea of the scope and breadth of the task that your branch takes on?

Aaron Orban:

Yeah, absolutely. So as you said, we produce an annual report on the access to information requests that are processed under The Freedom of Information and Protection of Privacy Act. So that as you'll know and probably a number of your listeners will know, Ron, applies to provincial government institutions. So that's executive government ministries, towns, agencies, boards and commissions. And what's I think really interesting about the numbers that we've been seeing over the past number of years is sort of a continual growth Almost year over year we've been seeing about a 20% increase in the number of access to information requests that are received by provincial government institutions. There was a little bit of a dip during COVID where it was slightly down for a year, but almost year over year there's this 20% increase. So last year, provincial government institutions processed just under 1900 access to information requests.

Out of those, about 300 were requests for personal information and the other 1600 or so were for general information. That, as I say is growing almost every year, particularly for general information requests. The personal information requests tend to stay stable at around that 300 mark. That's generally about the average since the legislation was enacted back in the early '90s and the average number for general requests sits at around 650. So when we're processing almost... Well more than double that amount, it just shows you how much the use of the legislation has grown year over year.

Ron Kruzeniski:

My next question sort of centres on that, and you've commented on the number of requests, have they been increasing, and you've answered that. So any more thoughts on the numbers increasing or why they're increasing?

Aaron Orban:

Well, I think, Ron, what I can tell you is that personal information requests, as I say, they've kind of come back down to what our typical levels are around that 300 a year. In the sort of the early 2010s, there had been a real peak in the number of personal information requests that were coming into government institutions and that largely had to do with people looking for information to support claims in the residential school claims process. So around 2012, we peaked with the requests there for personal information and then that number started to trend back down to our more historical levels. At the same time though, those requests for general information were increasing. I don't know in particular why that is. I think people have become a lot more aware of the ability to submit access to information requests.

And I think if as they say, the proof of the pudding is in the eating is it bears out in this case, I think the response of provincial government institutions is favourable and folks are seeing that when they're putting in requests, they're getting good results. So by that, I mean in preparing for our conversation today, I went back and looked at how we've been doing as a whole provincial government institutions over the past five years. And when you look at the allowable time under the act, so you can take up to 60 days, but 76% of the time in the past five years, responses to access to information requests have gone out within that first 30 days.

If you look at the full 60 days, we've been responding on time, 91% of the time. During that same time, we've also been granting access at a rate of almost 90% of the time. Now when I say granting access, that's either in full or in part, so either partial disclosure or full disclosure at 90% of the time. So I think when you have those kinds of satisfactory outcomes, it may lead people to use the service more often.

Ron Kruzeniski:

Those are pretty impressive numbers When you think about it, and we'll come back to maybe the 10 percents a little bit later in a question, but what are some of the most challenging types of requests your branch has received?

Aaron Orban:

Yeah, I think when you think about the kinds of requests that are received across government, Ron, and you sort of break them down into those two categories, the personal information requests, which of course are individuals looking for information about themselves that might be contained in government records or the general requests, which are essentially those things that are not personal information requests, which can be anything from meeting minutes to email correspondence. The general requests tend to be the ones that are more challenging, and often that's because of the need to reach out to several different program areas to find records that might be responsive to the request. That can result in lots of large files to look through. Sometimes there's thousands of pages to search through to find the kind of information that is responsive to an individual's request. As we go back over time, sometimes the formats are different and we're going back and finding information that might be in records that are on floppy discs, for instance.

And I mean, you can't even find a computer in office anymore that has a CD drive, let alone a floppy disc. So when you're going back and finding those sort of legacy formats, that can become challenging. So those kinds of files often result in those large volume of records, but then you also have that need then often to consult with lots of different program areas to make sure that you really understand the sensitivities around the records and that you're applying exemptions appropriately when you're doing that work. Another really challenging piece can be when you receive a lot of requests at once. So one of the things when you look across government, there's a few teams that... Few ministries I should say, that have dedicated access and privacy professionals, but there's a lot of ministries that don't. And the work of the access and privacy work in those ministries often falls to people as sort of a side of the desk responsibility.

And when those ministries have those occasions where they receive lots of requests at one time, that can be really challenging to meet that 30 day time period. I think those are the ones that tend to be the most challenging, Ron, is when you have that combination of a large volume of records to go through and perhaps you're getting hit by a lot of requests at the same time. But when you look back, those numbers that I had just mentioned about response times, I think that just speaks to the dedication of access and privacy professionals in provincial government institutions. They do this work with... They're a very dedicated group and they do this work very well.

Ron Kruzeniski:

And hopefully this is an opportunity that might improve your statistics. But when I read access requests, I can read one and say, "Oh, that'd be pretty easy to fulfil." And then I read another and say, "This will take a lot of hard, hard work and therefore a lot of time."

So do you have any suggestions to citizens as they're doing their access requests, things that they can do to kind of ensure that they get what they want and that they probably get a speedier response?

Aaron Orban:

You hit the nail right on the head, Ron. There's some requests that come in and as you say, they're pretty clear and straightforward. And then there's others where it's maybe not as clear what the applicant is looking for. In those circumstances, I think what the best thing that a person can do when

they're submitting an access to information request is to try and make their request as clear and concise just in terms of the language that they use. Be specific about the types of information that you're looking for. We as access and privacy professionals don't expect that the average citizen is going to necessarily know the exact name of the document. We don't expect them to describe the specific title of a document. But if they can give us a really good description of the kind of information that they're looking for in clear and concise language, then it really, really helps us to narrow our focus in terms of where we search.

And that's beneficial for everybody at the end of the day because it gives a speedier response if folks can be specific about dates, timelines, sometimes people will put in really, really broad requests because they think that by doing so it's going to get them the information that they need. But if you really know what you're looking for within a certain range, then don't be afraid of limiting to that. We can always work with the applicant if they're not satisfied to try and find something afterwards. And that's a really key point here, Ron, is just being prepared to work with the access and privacy professional. There is of course a duty to assist in the legislation and again, I think our access and privacy professionals across government take that duty very seriously and are more than happy to reach out and work with applicants when things aren't clear and help them to understand the kind of records that we have, the kind of information that might be in them to try and get them a better result at the end of the day.

The only other thing that I would want to mention here, Ron, is just in terms of personal information requests, when folks are making personal information requests, they should expect that the access professional on the other end is going to take some steps to make sure that they are who they say they are. The flip side of access to information is protection of privacy. So just as we have a duty to assist, we have a duty to protect and our access and privacy professionals take that duty really seriously. So citizens should expect and we hope appreciate that we're going to take some steps to confirm their identity before we provide them with any personal information.

Ron Kruzeniski:

Now, when I read access requests in my head, I often sort of say, and why does the applicant want this information? And that is something that one of the principles were really not supposed to focus on that. But on the other hand, knowing why can really be helpful in processing and getting to the records that are important. So posing the question to you, are there things that citizens can say to you either in the access request or the covering email or on the phone that really will help them get what they're looking for more accurately and sooner?

Aaron Orban:

I don't know that there's anything that you can say, use this specific language in every circumstance because access requests are so very different, right? Each of them has to be looked at on its own merits. I'd go back to what I just said, Ron. I think it's really a matter of being as clear and concise about dates and times and content and that willingness to work with the access professional to try and find the information that an individual is looking for. That's one of the biggest things is just that ability for an access professional if they're not certain or they're unclear about exactly what it is that an applicant's looking for, the ability to reach out to a person and have those conversations with them, I think is probably the biggest thing that helps move the process along.

I think it's more difficult to try and be prescriptive and say, these are the things that you should say when you're writing an access request because they are so different. To me, it's more important to be able to work together with an applicant to try and get them that result. So important for applicants to

leave contact information on their access requests, let us know what the best way to get in touch with you is so that we can try to work together to get that result.

Ron Kruzeniski:

So, I think what I hear you saying, it's that communications back and forth after the access request is filed. Just a little bit of verbal either by email or by phone, and that just brings greater clarity to the situation that number one is helpful for you but helpful for the citizen because they're going to come closer to getting what they want. That's what I'm hearing you say.

Aaron Orban:

Yeah, I think you're bang on there, Ron. And not only does it help them understand or hopefully get what they're looking for at the end of the day, but I think it also helps just understand the process a little bit more. The access to information process isn't something that lots of people are familiar with. So when a person who perhaps hasn't used the system before to submit an access request puts one in for the first time, they may not know what to expect. So that communication back and forth can help them navigate the process as well and understand what to expect as it goes along.

Ron Kruzeniski:

So, you cited that impressive statistic of 90% people get what they want or partially what they want. And I don't know if this is a different number, but my question was how many times in a year do you find that citizens aren't happy with what you've given them? And I suppose in some instances that means they appeal to our office, but starting with that 90%, you and my office are not communicating all that often when you really think about it.

Aaron Orban:

Yeah. I was really impressed with that statistic when I started digging back into the numbers, Ron. And when you ask about how many times citizens aren't happy with what they receive, I think probably the best way to measure that is to look at how many times people do come to your office. So whenever an access request goes out, part of what goes out in the response to an applicant in the letter that says, here's the records that you asked for, we've applied certain exemptions, or here they are in full, we always tell them about their right to appeal to your office. So folks are aware that they have the ability to come to your office. So as I was thinking about this, I looked at the number of times that... The number of reviews of access to information decisions that your office has conducted over the past few years.

So last year I looked at your annual report and your office conducted 129 reviews. So we processed, we as in provincial government institutions processed just under 1900 requests. So the number was 1,891. So that means that 93% of the times applicants were satisfied with their outcome to the degree that they didn't appeal to your office. I don't know, out of that 129, how many were under The Freedom of Information and Protection of Privacy Act, which applies to provincial government institutions and how many were under the local authority version of that act. So that 93% might not be completely accurate, but even if we look at that, I think that's a really, really solid result. And again, it speaks to the level of professionalism and dedication of access and privacy professionals in provincial government. I'm really, really proud of the work that they do and want to thank them, especially when we're celebrating Right to Know. I think it's important to just say thank you to all the Access Privacy professionals and appreciate the work that they do because it's often a difficult role and it doesn't necessarily receive the positive attention that it should.

Ron Kruzeniski:

Well, Aaron, thank you very much for doing this today on Right to Know Day, and thank you for those very positive statistics. And even though you and I have an important job to do, I actually hope that we don't have very many files together in the future and also enjoy our other communications when we're talking about other issues other than access reviews. So thanks for taking the time today and thank you to all your staff for all the good work that they do.

Aaron Orban:

Thank you very much for having me, Ron. It was a pleasure and I know that there's a lot of respect for the work that your office does too. So thank you for the important work that you and your staff do.