

November 20, 2002

To: The Solicitor General (the “Public Body”)

And to: The Applicant

Dear Public Body and Applicant:

**Re: ORDER F2002-025  
Review Number 2349**

This letter sets out my decision and Order in the written inquiry I held on October 3, 2002 concerning Review Number 2349.

## **I. BACKGROUND AND ISSUE**

[para 1] On October 19, 2001, the Applicant made an information request for both general and personal information to the Solicitor General of Alberta (the Public Body) under the *Freedom of Information and Protection of Privacy Act*, now R.S.A. 2000, c.F-25 [previously S.A. 1994, c.F-18.5] (the “Act”).

[para 2] The Public Body disclosed the general information requested to the Applicant’s apparent satisfaction. The general information is not the subject of this inquiry.

[para 3] The personal information requested consisted of the names of three individuals who illegibly signed specifically identified Request for Interview forms at the Edmonton Remand Centre. The Public Body previously provided the forms (the records) to the Applicant. The Public Body did not sever the illegible names or any other information from the records.

[para 4] The Applicant asked the Public Body to decipher the illegible names. On December 27, 2001, the Public Body wrote the Applicant stating that the names were being withheld under section 17(1) [previously section 16(1)] of the Act (third party personal information).

[para 5] On January 3, 2002, the Applicant wrote to the Office of the Information and Privacy Commissioner requesting a review of the decision not to disclose the names of the individuals who signed the Request for Interview forms. Mediation was authorized but was not successful.

[para 6] On May 29, 2002, the Office of the Information and Privacy Commissioner sent both parties a Notice of Inquiry, setting the matter down for a written inquiry. The issue identified for the inquiry was whether the Public Body properly applied section 17(1) [previously section 16(1)] of the Act to the records.

## II. DISCUSSION OF THE ISSUE

[para 7] In reviewing the submissions of the Applicant and the Public Body, it was clear that this was an unusual access request. The Applicant already had complete, unsevered copies of the records. Three different staff members of the Edmonton Remand Centre signed those three records. The Applicant could not determine the names from the signatures and wanted the Public Body to tell him who had signed the forms.

[para 8] In responding to the Applicant, the Public Body relied on section 17(1) [previously section 16(1)] of the Act in refusing to answer the Applicant's question. The Applicant argued that in a "free and democratic" society, names of public officials should not be withheld. Although not specifically referenced by the Applicant, this would appear to be an argument that section 17(1) [previously section 16(1)] would not apply, because the disclosure would not be an unreasonable invasion of the third parties' privacy. However, in my view, section 17(1) [previously section 16(1)] has no application to records that have already been disclosed.

[para 9] An applicant's right to access under the Act is set out in section 6(1), which states:

*6(1) An applicant has a right of access to any record in the custody or under the control of a public body, including a record containing personal information about the applicant.*

[para 10] The Applicant's right to access records has been fulfilled by the Public Body in that the Applicant already has unsevered copies of the records. There is no duty within the Act or the *Freedom of Information and Protection of Privacy Regulation* (the "Regulation") that requires the Public Body to answer questions about the record or to clarify what is written.

[para 11] Upon completion of an inquiry, section 72 [previously section 68] of the Act requires me to dispose of the issues by making an order under that section. An inquiry involving access is covered by section 72(2) [previously section 68(2)], which states:

*72(2) If the inquiry relates to a decision to give or to refuse to give access to all or part of a record, the Commissioner may, by order, do the following:*

- (a) *require the head to give the applicant access to all or part of the record, if the Commissioner determines that the head is not authorized or required to refuse access;*
- (b) *either confirm the decision of the head or require the head to reconsider it, if the Commissioner determines that the head is authorized to refuse access;*
- (c) *require the head to refuse access to all or part of the record, if the Commissioner determines that the head is required to refuse access*

[para 12] Since the Applicant is already in possession of all of the records, unsevered, there is nothing for me to order under this subsection. Therefore, I must determine if any other part of section 72 [previously section 68] would allow me to make an order on this matter.

[para 13] Section 72(3) [previously section 68(3)] authorizes me to make an order regarding issues that are not related to access. Section 72(3)(a) [previously section 68(3)(a)] of the Act states:

*(3) If the inquiry relates to any other matter, the Commissioner may, by order, do one or more of the following:*

- (a) *require that a duty imposed by this Act or the regulations be performed;*

[para 14] As previously stated, the Public Body is not required by any duty contained in the Act or the Regulation to answer the Applicant's question. Therefore, I do not have the jurisdiction to make an order that would satisfy the Applicant's request for clarification of the signatures on the records.

[para 15] Having reached this decision, I do not see the need to consider the arguments of either party any further.

### **III. MY DECISION**

[para 15] I do not have the jurisdiction to impose the remedy that the Applicant seeks.

Dave Bell  
Adjudicator