

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2016-12

April 15, 2016

ALBERTA JUSTICE AND SOLICITOR GENERAL

Case File Number 002554

Office URL: www.oipc.ab.ca

Summary: On January 11, 2016, the Applicant made an access request to Alberta Justice and Solicitor General (the Public Body) for records relating to a particular individual and communication between Crown counsel and that individual. The Applicant also requested the identity of a staff member of the Public Body and the attendance record of another staff member at her office on particular dates.

The Public Body acknowledged receipt of the request on January 12, 2016. The Public Body, in submissions to the inquiry, acknowledged that it failed to meet the time limit for responding to an access request as required by section 11 of the Act. The Adjudicator ordered the Public Body to respond to the Applicant's access request.

Statutes Cited: **AB:** *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 11, 72.

I. BACKGROUND

[para 1] The Applicant made an access request under the *Freedom of Information and Protection of Privacy Act* (the Act) dated January 7, 2016 to Alberta Justice and Solicitor General (the Public Body) for records relating to notations made to a court file by employees of the Public Body. The Applicant also requested records relating to communication between the employees of the Public Body and a certain individual. The

Applicant further requested records that would identify a particular employee and attendance records of another employee at her office.

[para 2] The Public Body acknowledged receipt of the request on January 12, 2016 and informed the Applicant that it would make every reasonable effort to respond to the request within the 30 days allowed under the Act. The Public Body also indicated that due to a high volume of requests, the response time may exceed the 30 day requirement.

[para 3] After speaking with the Public Body on February 19, 2016, the Applicant learned that he may not get a response to his request for over a year. The Applicant then requested a review of the Public Body's response. In order to ensure a timely response to the access request, the Applicant's request for review proceeded directly to inquiry.

II. RECORDS AT ISSUE

[para 4] As the issue in this inquiry relates to the timeliness of the Public Body's response to the Applicant, there are no records at issue.

III. ISSUE

[para 5] The Notice of Inquiry lists the issue for this inquiry:

Did the Public Body comply with section 11 of the Act (time limit for responding)?

IV. DISCUSSION OF ISSUE

[para 6] Section 11 of the Act requires a public body to respond to an access request no later than 30 days after receiving the request. Section 11 of the Act states:

11(1) The head of a public body must make every reasonable effort to respond to a request not later than 30 days after receiving it unless

(a) that time limit is extended under section 14, or

(b) the request has been transferred under section 15 to another public body.

(2) The failure of the head to respond to a request within the 30-day period or any extended period is to be treated as a decision to refuse access to the record.

[para 7] In submissions to this inquiry, the Public Body acknowledged it did not comply with section 11 of the Act.

[para 8] The Public Body also stated:

Given that the Public Body has numerous files that are late, it made the decision not to request an extension from the Office of the Information and Privacy Commissioner (OIPC) in accordance with section 14 of the Act, as it was expected the OIPC would not grant the length of time the Public Body would require to process the request.

[para 9] The Public Body informs me:

...it is taking steps to address the issue of its inability to respond to access to information requests in accordance with section 11 of the *FOIP Act*. Its FOIP Unit has made changes to its internal processes to make them more efficient and is currently recruiting three (3) FOIP Advisor positions. Filling these positions will help to alleviate the back log of late files, however, the impact will not be immediate.

[para 10] I find the Public Body has failed to meet its obligations under section 11 of the Act.

V. ORDER

[para 11] I make this Order under section 72 of the Act.

[para 12] I find that the Public Body did not respond to the Applicant within the time limit set out in section 11 of the Act. While it is too late for the Public Body to now comply with that section of the Act, I order the Public Body to respond to the Applicant in accordance with the Public Body's remaining duties under the Act.

[para 13] I order the Public Body to notify me in writing, within 50 days of being given a copy of this Order, that it has complied with the Order.

Neena Ahluwalia Q.C.
Adjudicator