

ALBERTA

OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER

ORDER F2016-53

October 26, 2016

ALBERTA JUSTICE AND SOLICITOR GENERAL

Case File Number 003664

Office URL: www.oipc.ab.ca

Summary: The Applicant made an access request to Alberta Justice and Solicitor General (the Public Body) pursuant to the *Freedom of Information and Protection of Privacy Act* (the Act) for “all briefing materials related to fentanyl”. The Public Body acknowledged it did not respond to the Applicant within the time frame of section 11 of the Act. The Adjudicator ordered the Public Body to comply with the Act.

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] This inquiry arises from a request for records made by the Applicant to Alberta Justice and Solicitor General (the Public Body) on January 22, 2016. He requested the following:

A list of all briefing materials related to fentanyl, with all standard data fields. This list may be generated from the ARTS system if appropriate. Standard data could include but is not limited to such data as title or subject, start date, end date, correspondent(s), and file number.

Please include but do not limit to: any briefing notes, memorandum, presentation slides, ministerial orders, ‘advice to minister’ and ‘advice to deputy minister’ notes, requests for decision, and reports.

If minister or deputy minister is not the correct title, please use the equivalent term or terms for your organization.

[para 2] The Applicant requested these records for the time period January 1, 2012 to January 22, 2016.

[para 3] The Applicant states that the Public Body has not responded to the access request. The Applicant has therefore requested review by the Commissioner of the Public Body's compliance with section 11 of the Act.

II. ISSUE

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

III. DISCUSSION OF ISSUE

[para 4] 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 5] The Applicant's request for access to information was dated January 22, 2016.

[para 6] The Public Body acknowledges that it did not comply with section 11 of the Act.

[para 7] In submissions to this Inquiry, the Public Body states:

The Public Body has numerous late files and, in order to be fair to all its applicants, it has been processing them in the order in which they were received. The exceptions to this have been files which were required to be prioritized due to Court dates, subject of OIPC Orders to process requests, etc.

Given the above information, the Public Body 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 approve the length of time the Public Body would require to process the request.

In response to the Notice of Inquiry, the Public Body made this file a priority and is actively processing this request. It expects to be able to respond to the Applicant in the near future.

[para 8] It further states as it is late in responding to the Applicant, the Public Body will waive all fees related to the access request.

[para 9] The Public Body also states it is actively processing the Applicant's request and expects to be able to respond to the Applicant in the near future.

[para 10] Finally, the Public Body states it is taking steps to address the issue of its inability to respond to access to information requests.

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

IV. ORDER

[para 12] I make this Order under section 72 of the Act.

[para 13] I find the Public Body did not respond to the Applicant within the time limit set out in section 11 of the Act.

[para 14] I order the Public Body to respond to the Applicant in accordance with the Public Body's remaining duties under the Act.

[para 15] 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