

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2018-02

January 18, 2018

CALGARY POLICE SERVICE

Case File Number 007177

Office URL: www.oipc.ab.ca

Summary: An Applicant made an access request dated September 13, 2017, to the Calgary Police Service (Public Body). The Public Body acknowledged receipt of the request but has not yet provided a response as required by the *Freedom of Information and Protection of Privacy Act* (the Act).

The Applicant requested a review of the time taken by the Public Body to respond.

The Adjudicator ordered the Public Body to respond to the Applicant's access request as required by 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] An Applicant made an access request dated September 13, 2017, to the Calgary Police Service (Public Body) under the *Freedom of Information and Protection of Privacy Act* (the Act). The Public Body acknowledged receipt of the request by email dated September 15, 2017.

[para 2] On October 31, 2017, this office received the Applicant's request for a review of the Public Body's failure to respond.

II. RECORDS AT ISSUE

[para 3] As the issue in this inquiry relates to the timeliness of the Public Body's response, there are no records at issue.

III. ISSUE

[para 4] The Notice of Inquiry, dated December 14, 2017, states the issue for this inquiry as follows:

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

IV. DISCUSSION OF ISSUE

[para 5] Section 11 of the Act requires a public body to make every reasonable effort 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 6] In its submission to this inquiry, the Public Body admits that it failed to comply with section 11 of the Act. It states that this failure was a result of human error.

[para 7] The Public Body states that the Applicant made a previous request for the same records, and that the Public Body provided a response to the Applicant regarding that request on June 19, 2017. The manager responsible mistook the Applicant's new request for that prior request, and marked the new request as having been completed.

[para 8] The Public Body further states that it has begun processing the Applicant's new request, and "is in a position to fully respond to the Applicant and will do so within the next 10 days." (Initial submission, at para. 6).

[para 9] The Public Body must make every reasonable effort to respond to an access request in 30 days. Given the date of the Applicant's access request and the Public Body's admissions, I find that the Public Body failed to make every reasonable effort to respond within the timelines provided in the Act.

[para 10] Although the Public Body has stated that it will respond to the Applicant's request imminently, it has not *yet* responded. Therefore, I will order the Public Body to do so.

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 further 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.

Amanda Swanek
Adjudicator