

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2019-08

March 19, 2019

EDMONTON POLICE SERVICE

Case File Number 010939

Office URL: www.oipc.ab.ca

Summary: An Applicant made an access request under the *Freedom of Information and Protection of Privacy Act* (the Act) that was received by the Edmonton Police Service (Public Body) on August 2, 2018. The request was clarified on August 21, 2018.

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

The Adjudicator found that the Public Body failed to make every reasonable effort to respond within the timelines provided in the Act.

Statutes Cited: AB: *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 11, 14, 72.

I. BACKGROUND

[para 1] An Applicant made an access request under the *Freedom of Information and Protection of Privacy Act* (the Act) that was received by the Edmonton Police Service (Public Body) on August 2, 2018. The request was clarified on August 21, 2018.

[para 2] On September 26, 2018, the Public Body notified the Applicant that it was extending its time to process his request by 30 days, under section 14(1) of the Act. On November 28, 2018, this Office received a request for review from the Applicant, as he had not yet received a response by the Public Body as required by the Act.

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 February 20, 2019, 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 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, the Public Body states that the employee handling the Applicant's request began processing the Applicant's request, and located 1148 pages of responsive records. However, the employee went on extended leave in near the end of 2018, before the request was completed. The Public Body also states that it has experienced other staffing shortages in early 2019, but has taken steps to mitigate the shortage. The Public Body further states that the Applicant's request has been given priority, and that it expects to respond by March 22, 2019.

[para 7] The Public Body must make every reasonable effort to respond to an access request in 30 days. The Public Body extended its time to respond by another 30 days, as permitted under section 14(1) of the Act. That 30-day extension presumably would have expired around the end of October 2018; no further time extensions appear to have been granted. Therefore, the Public Body's response to the Applicant's request is several months overdue. That said, the Public Body expects to respond to the Applicant by the end of this month.

[para 8] Given the dates above, I find that the Public Body failed to make every reasonable effort to respond within the timelines provided in the Act. It follows from this finding that I will order the Public Body to respond in accordance with the Act. The date the Public Body expects to respond to the Applicant falls well within the time to comply with this order.

V. ORDER

[para 9] I make this Order under section 72 of the Act.

[para 10] 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 11] 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