

**ALBERTA
INFORMATION AND PRIVACY COMMISSIONER**

REQUEST TO DISREGARD F2022-RTD-06

July 28, 2022

CHILDREN'S SERVICES

Case File Number 018898

- [1] Children's Services (the "Public Body") requested authorization under section 55(1) of the *Freedom of Information and Protection of Privacy Act* ("FOIP" or the "Act") to disregard an access request made by an individual, whom I will refer to as the Applicant.
- [2] For the reasons outlined in this decision, the Public Body is authorized to disregard the Applicant's access request 2020-P-1429. The Public Body may also disregard any similar access requests from the Applicant that it may receive in the future.

Commissioner's Authority

- [3] Section 55(1) of the FOIP Act gives me the power to authorize a public body to disregard certain requests. Section 55(1) states:
- 55(1) If the head of a public body asks, the Commissioner may authorize the public body to disregard one or more requests under section 7(1) or 36(1) if
- (a) because of their repetitious or systematic nature, the requests would unreasonably interfere with the operations of the public body or amount to an abuse of the right to make those requests, or
- (b) one or more of the requests are frivolous or vexatious.

Background

- [4] The Applicant made an access request on November 4, 2020, which was identified as access request 2020-P-1429 by the Public Body. The Applicant requested the following:
- Any and all records (active, archived, deleted, dormant, severed etc.) of any kind; including, but not limited to the following: all emails (to and/or from) including any and all attachments of any kind (including any and all drafts), texts (to and from), bbm messages (to and/or from), Livelink messenger messages (to and/or from), any other type of chat room or instant messenger type service (to and/or from), comments of any kind and in any type of format, written correspondence of any kind and in any format, documents of any kind, schedules of any kind, notes of any kind, files, links and/or

attachments of any kind and in any format, records of any and all mailed and/or couriered letters (to and/or from), correspondence of any kind and in any format, records of packages or material, copies of electronic drives (key FOBS, flash drives etc.) and the like couriered and/or mailed (to and/or from), records of any and all phone/video calls (time, date, subject, action, outcome and the like) (to and/or from) and/or records of any other type of audio communication and/or video communication (time, date, subject, action, outcome and the like) (to and/or from), written material of any kind, letters, faxes, notes, transcripts, reports of any kind, reporting(s), summaries of any kind, records of surveillance of any kind, consultations of any kind, observations of any kind, interpretations of any kind, reviews of any kind, decisions of any kind, analyses of any kind, observations of any kind, opinions of any kind, copies of requests of any kind, assessments of any kind, minutes of any and all meetings (be they formal or informal – records involving any in person and/or electronic/videoconferences/teleconferences – including but not limited to, those telecommunication/video/audio calls having used the following software providers Apple Inc. FaceTime, Facebook Inc. Messenger, Alphabet Inc. (Google LLC) Duo, Zoom Video Communications Inc. video/audio calls/meetings and/or other/similar), records and/or communications of any and all kind, regardless of format – along with all prior drafts of any and all kind of any and all records of the following individuals:

- [name redacted], Coordinator, Children’s Services, Calgary and Area, Government of Alberta;
- [first name redacted] (last name refused to be provided to the Applicant by [name redacted]), Children’s Services contractor, Calgary and Area, Government of Alberta;
- [name redacted], Caseworker, Calgary Region, Children’s Services, Calgary and Area, Government of Alberta;
- [name redacted], Assessor - Children’s Services, Calgary and Area, Government of Alberta;
- [name redacted], Casework Supervisor, Children’s Services, Government of Alberta;
- [name redacted], Casework Supervisor, Children’s Services, Calgary and Area, Government of Alberta;
- [name redacted], Manager, Children’s Services, Calgary and Area, Government of Alberta;
- [name redacted], Associate Director, Kensington Regional Office, Children’s Services, Government of Alberta;
- [name redacted], Associate Director, Kensington Regional Office, Children’s Services, Government of Alberta;
- [name redacted], Associate Director, Kensington Regional Office, Children’s Services, Government of Alberta;
- [name redacted], Regional Director, Calgary and Area, Children’s Services, Government of Alberta;
- [name redacted], Assistant Deputy Minister, Child Intervention Division, Children’s Services, Government of Alberta;

Involving and/or referencing myself, [name redacted] (no matter how the Applicant may be referred to and/or referenced in such records and/or what type of “code name” or other is assigned to the Applicant – some examples may include, “... our friend, friend, [variations of Applicant’s name redacted], Accused, the Accused, Applicant, the Applicant, Respondent, the Respondent, Defendant, the Defendant, the client, Complex

Client, Mr. [initials redacted], “Unicorn”, Subject and/or subject”). DOB [redacted], between the time period of November 1, 2018 to the present.

- [5] The Public Body provided a lengthy and detailed submission including information about five previous access requests made by the Applicant between 2017 to 2019 to which it had responded. It provided a table demonstrating the overlapping nature of the Applicant’s access requests. The Public Body also referred to my earlier decisions wherein I had previously authorized other public bodies to disregard access requests made by the Applicant.
- [6] The Applicant provided submissions in response. Although I have not referred to the parties’ submissions in their entirety in this decision, I have carefully reviewed all of the materials before me. I note that much of the Applicant’s submissions focus on alleged breaches of privacy legislation by the public body or other entities. I have not considered these allegations further in this matter, as this is a section 55 decision under FOIP. Individuals may bring a complaint before my office if they want me to consider investigating such allegations. The issue before me is whether the Public Body has met its burden to show that the criteria of section 55(1) are met, and if so, whether I will exercise my discretion to authorize it to disregard the Applicant’s access request.

Analysis

Section 55(1)(a) – requests are repetitious or systematic in nature

- [7] “Repetitious” is when a request for the same records or information is made more than once. “Systematic in nature” includes a pattern of conduct that is regular or deliberate.
- [8] The Public Body submitted as follows:

In regard to this Applicant’s access request, some of the records requested have been requested in previous access requests. Therefore the request involves the repetition of requesting the same records or information more than once.

The names and/or time frames for the new and previous requests overlap significantly, particularly the last four requests 2020-P-1429, 2019-P-0306, 2019-P-0261 and 2018-P-0244. The first two requests, 2017-P-1327 and 2017-P-0095 also have substantial overlap (see table). All of the Applicant’s past requests except 2017-P-1327 specifically name multiple employees from multiple program areas within Children’s Services as well as the PFCS FOIP Office. In the current request, the Applicant lists 12 staff from 3 different program areas including 5 senior staff. [...] This request spans a total of 24 months. The Public Body has noted a concerning pattern to the Applicant’s access requests. It is the Public Body’s position that the Applicant receives records from a previous request and then makes a new request for the records of any individual whose name may appear in those records. This observation was supported by the section 55 decision F2020-RTD-03 by the Information and Privacy Commissioner.

- [9] The Applicant stated his position that the Public Body could have contacted him to narrow the scope of his request and stated as follows:

Additionally, the public body stated that there was significant overlap in my recent access request. Should there have been some slight overlap to any prior request then this was purely unintentional on my past [sic] as I had verified my own records and I had believed that there was no overlap in the requested information and/or time period. I sincerely apologize should this not have been the actual case. In my opinion, the Public Body could have easily discussed this topic with me in a brief telephone conversation. I am uncertain as to why representatives of the Public Body did not take this initial step as I would have welcomed such a conversation. Rather than the Public Body representatives going directly to the OIPC and a Sec. 55(1) application to disregard the entire request.

- [10] Having reviewed the Public Body's table showing the overlapping nature of the Applicant's access request, I am satisfied that some portions of the current request are repetitious. As a whole, the Applicant's request is systematic. The current access request has similar wording to his previous access requests, and as noted by the Public Body, the Applicant continues to follow his established pattern of making new access requests involving named individuals who have appeared in responses to previous access requests.

Section 55(1)(a) – the requests would unreasonably interfere with the operations of the public body or amount to an abuse of the right to make those requests

- [11] In addition to establishing that a request is either repetitious or systematic, under section 55(1)(a), a public body must also provide evidence that the requests would unreasonably interfere with the operations of the public body or that they amount to an abuse of the right to make those requests.

- [12] The Public Body submitted, in part, as follows:

It is the Public Body's position that the Applicant is not specifically seeking access to information about him by naming these individuals but he means to intimidate the subjects of the request. The confrontational, threatening, and demeaning and uncooperative behaviours displayed by the Applicant in dealing with staff, coupled with accusations and complaints about numerous staff have had a psychological and emotional deleterious effect on staff. The Applicant is thereby not only complicating the process by not necessarily seeking new information and he is thereby effectively "weaponizing" the FOIP Act by abusing the process. The Public Body believes this is contrary to the purposes of the Act.

[...]

The Applicant has had multiple inquiries with numerous program areas and employees within Children's Services over a prolonged period. The Applicant has demonstrated hostility towards many employees within Children's Services that he has had contact with and has accused staff of unsubstantiated allegations. Although each program area has attempted to resolve these inquires, the Applicant remains unsatisfied with the

outcome and decisions made and continues to pursue these matters either through complaints within each Children's Services program area as well as 5 staff in the PFCS FOIP Office (2018-P-0244). His demonstrated *modus operandi* has been to employ abusive behaviour, overwhelm staff with accusations of their incompetency, accuse staff of corruption and threaten them with police or other legal action. Many program areas have done all they can to resolve the Applicant's inquiries and have had to advise him that no further communication regarding his issues will be provided. Based on the Applicant's on-going history and demonstrated behaviour, it is therefore anticipated that on-going requests will result in continued dissatisfaction and the Applicant will revert to seeking employee names which in our opinion is used to further harass and intimidate. It is the Public Body's position that this is an abuse and misuse of the right to request information under section 6(1) (Information rights) of the FOIP Act. To further support the above point, the Public Body can acknowledge that the applicant's multiple contacts across the Public Body includes ongoing emails and telephone contacts requesting information, action and other activities to the Children's Services Minister's Office, Legal Services Division, Corporate Services Division, and the PFCS FOIP Office. The Applicant's calls were often lengthy and took staff extended periods of time as he was threatening, confrontational and argumentative. In a single afternoon, the Applicant made over 14 telephone calls to the PFCS FOIP Office attempting to gain information about a request he had just made. The Applicant took up so much staff time and was so confrontational the PFCS Director made a decision that all incoming calls from Albertans would not be answered but would instead be left to go to voice mail and each caller's message would be returned later. The vast number of contacts and the Applicant's confrontational and threatening demeanour was instrumental in the decision of the Public Body to create a Complex Client Management Plan for the Applicant. This Plan requires that communications from the Applicant is directed through a central point at Justice and Solicitor General. This also includes emails sent to other Government of Alberta (GoA) Departments. This Complex Client Plan is also meant to manage the multitude of complaints the applicant has made regarding various government staff and demands to have them disciplined, replaced or dismissed. The emails sent over a period since 2016, often directly to employees, their supervisors and others, has had the obvious impact of creating unnecessary stress on many staff. It is reasonable to conclude that the Applicant perceives there has been some harm to him because of Children's Services involvement and he is seeking retribution. Corporate Security advises the Applicant poses a safety risk directed toward current and past Children's Services employees, other government staff and potentially anyone with whom he comes into contact with or has a grievance with. It is also our concern, based on the Applicant's past behaviour, he will use/aggregate information to further his objective to engage in stalking/harassing behaviour which has been psychologically and emotionally harmful to the subjects of his requests.

[13] The Applicant objects to the Public Body's characterization of his access request. He states that the Public Body's comment that he is attempting to 'weaponize' the legislation is "simply not true and such an allegation by [name redacted] is baseless in substance and/or fact". He states that, "I, the Applicant, would simply like to obtain relevant and precise records which I believe are in the custody and control of the Public Body". The

Applicant argues that the Public Body's request under section 55(1) is an attempt to avoid providing him with additional proof of the Public Body's wrongdoing:

Hence, it seems very clear and, not unexpected, that the Public Body now wishes for me, the Applicant, not to come into possession of any further material and/or records which will demonstrate and/or implicate the past and/or ongoing wrong actions of certain employee(s) of Alberta Children's Services. Such employee(s) knowingly, willingly and intentionally committing such actions contrary to certain Acts (including the Criminal Code of Canada). I, the Applicant, take such wrongful actions by the representatives of the Public Body extremely seriously and they give me great cause for concern. Such wrongful actions should also give all Albertans great cause for concern and it is in the general public's interest to determine and learn what else such representatives of the Public Body have done in this particular situation involving the Applicant.

- [14] The Public Body relies on previous section 55(1) decisions involving the same Applicant, noting that I have previously found that when reviewing these matters I may consider an individual's litigation and court history as well as other matters before my office. I have previously held that the Applicant is a persistent and prolific user of access to information legislation. For example, in F2020-RTD-02 and in F2020-RTD-03 I considered the fact that, at that time, the Applicant had been involved in 70 matters before my office.
- [15] In this case, the circumstances described by the Public Body are similar to those I have found in other matters involving the Applicant. In F2020-RTD-03 (at paras 27 and 28) I found that the Applicant was abusing his rights under the FOIP Act by i) systematically making new access requests including new names of individuals that he had obtained from that public body's responses to prior access requests, ii) that he was naming as many individuals as possible to complicate the process and not to seek new information and iii) that the Applicant reverted to seeking names of employees through the FOIP Act when a program area had done all it can to resolve his issues and advised him that no further communication would be provided.
- [16] Access to information rights are intended to foster open and transparent government. They are not meant to allow a disgruntled individual to harass a public body or its employees in retaliation for perceived wrongs against that individual. I find that the Applicant is not using the FOIP Act for its intended purpose. On the basis of the information provided by the Public Body, including my consideration of my previous decisions involving the Applicant and the fact that he has continued the same pattern of behaviour with this Public Body, I am satisfied that the Applicant's access request is an abuse of his right to make access requests.
- [17] Both the Public Body and the Applicant provided submissions as to whether responding to the access request would unreasonably interfere with the operations of the Public Body, but I find I do not need to consider those arguments in this case.

Section 55(1)(b) – frivolous or vexatious

[18] The Public Body has met its burden to establish that the conditions of section 55(1)(a) are met, therefore I do not need to consider whether the Applicant’s access request is also frivolous or vexatious.

Request for Authorization to Disregard Future Access Requests

[19] The Public Body requested authorization to disregard all future similar access requests from the Applicant.

[20] The Public Body states that responding to the Applicant’s future access requests will “take away time and resources that would normally be used to serve those who use the legislation and resources appropriately”. It further states:

As previously indicated the Applicant’s demonstrated *modus operandi* or established pattern has been to employ abusive behaviour, overwhelm staff with accusations of incompetency, accuse them of corruption, and threaten them with police or other legal action.

The Applicant is well aware of the threatening, condescending and confrontational behaviours he engages in during the processing of requests as well as the fact that the weaponized use of his FOIP requests themselves intimidate both program as well as FOIP staff which seems to be the intent of his requests. It is reasonable to conclude that he perceives there has been some harm to him because of Children’s Service’s involvement and he is seeking retribution. Corporate Security advises the Applicant poses a safety risk directed toward current and past Children’s Services employees, other government staff and potentially anyone with whom he comes into contact with or has a grievance with. It is also our concern based on the Applicant’s past behaviour which he will use/aggregate information to further his objective to engage in stalking/harassing behaviour which has been psychologically and emotionally harmful to staff.

[21] In F2020-RTD-03 at para 38, in the context of my finding that the Applicant’s access request was vexatious, I referred to an earlier section 55(1) decision also involving the Applicant. I stated:

In #006487 I was unable to conclude that the Applicant’s access requests were vexatious, but observed that the Applicant’s escalating access requests and behaviour could change my finding in the future. Despite what was in effect my warning to the Applicant, his behaviour has not changed.

[22] That decision was issued several months before the Applicant made the access request at issue in this matter. It is clear that the Applicant has not changed his behaviour. Despite previously issuing five decisions authorizing a number of public bodies and custodians to

disregard the Applicant's access requests in whole or in part, he has continued the same pattern of behaviour. Given his established historical pattern of abuse, I find that the Applicant is likely to continue his abuse of his rights under the FOIP Act in the future.

[23] The Public Body is authorized to disregard all similar access requests from the Applicant in the future.

Decision

[24] The Public Body is authorized to disregard access request 2020-P-1429. The Public Body may also disregard any similar access requests from the Applicant that it may receive in the future.

Jill Clayton
Information and Privacy Commissioner

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