

ALBERTA

OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER

ORDER F2023-06

January 27, 2023

PUBLIC SAFETY AND EMERGENCY SERVICES

Case File Number 028074

Office URL: www.oipc.ab.ca

Summary: On January 19, 2022, an individual (the Applicant) submitted an access request for certain information to Public Safety and Emergency Services (formerly Justice and Solicitor General) (the Public Body) under the *Freedom of Information and Protection of Privacy Act* (the Act).

On November 17, 2022, the Applicant requested a review by this Office, indicating that the time limit for responding to the access request under the Act had expired and the Public Body had not provided a response.

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, 14 and 72.

I. BACKGROUND

[para 1] On January 19, 2022, an individual (the Applicant) submitted an access request for certain information to Public Safety and Emergency Services (formerly Justice and Solicitor General) (the Public Body) under the *Freedom of Information and Protection of Privacy Act* (the Act).

[para 2] On November 17, 2022, the Applicant requested a review by this Office, indicating that the time limit for responding to the access request under the Act had expired and the Public Body had not provided a response.

[para 3] The Commissioner decided to move the matter directly to inquiry and delegated her authority to conduct the inquiry to me.

II. RECORDS AT ISSUE

[para 4] 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 5] The Notice of Inquiry, dated January 23, 2023, 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 6] Section 11 of the Act requires a public body to make every reasonable effort to respond to an access request not 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] Section 14 of the Act states:

14(1) The head of a public body may extend the time for responding to a request for up to 30 days or, with the Commissioner's permission, for a longer period if

- (a) the applicant does not give enough detail to enable the public body to identify a requested record,*
- (b) a large number of records are requested or must be searched and responding within the period set out in section 11 would unreasonably interfere with the operations of the public body,*

(c) *more time is needed to consult with a third party or another public body before deciding whether to grant access to a record, or*

(d) *a third party asks for a review under section 65(2) or 77(3).*

(2) *The head of a public body may, with the Commissioner's permission, extend the time for responding to a request if multiple concurrent requests have been made by the same applicant or multiple concurrent requests have been made by 2 or more applicants who work for the same organization or who work in association with each other.*

(3) *Despite subsection (1), where the head of a public body is considering giving access to a record to which section 30 applies, the head of the public body may extend the time for responding to the request for the period of time necessary to enable the head to comply with the requirements of section 31.*

(4) *If the time for responding to a request is extended under subsection (1), (2) or (3), the head of the public body must tell the applicant*

(a) *the reason for the extension,*

(b) *when a response can be expected, and*

(c) *that the applicant may make a complaint to the Commissioner or to an adjudicator, as the case may be, about the extension.*

[para 8] In its submission, the Public Body stated:

In response to the Notice of Inquiry; the Public Body acknowledges that it did not comply with section 11 of the *FOIP Act*.

The Public Body has made this file a priority and is actively processing it and expects to be able to respond to the Applicant in the near future. As it is late in responding, all fees related to this file will be waived.

The Public Body will accept the decision of the adjudicator and comply with the Orders.

[para 9] It has been over a year since the Applicant submitted her access request to the Public Body. The Public Body has acknowledged that it did not comply with section 11 of the Act. I find that the Public Body failed to comply with the time limits set out in the Act.

[para 10] As the Public Body has yet to respond to the Applicant, I must order it to respond to the Applicant.

V. ORDER

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

[para 12] I find that the Public Body failed to 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 and the Applicant in writing, not later than 50 days after being given a copy of this Order, that it has complied with the Order.

Carmen Mann
Adjudicator