

# ALBERTA

## OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER

### ORDER F2023-29

July 11, 2023

### HEALTH

Case File Numbers 028753, 028754, 028812, 028813, 028815, 028816,  
028819, 028820, 028821, 028822, 028824, 028826, 028828, 028829

**Office URL:** [www.oipc.ab.ca](http://www.oipc.ab.ca)

**Summary:** On May 27, 2020, the Applicant made lengthy and detailed access requests for records to different public bodies. The access requests related to the Government of Alberta's implementation of COVID-19 measures and the evidence on which it had relied. The Public Bodies determined that the requests should be transferred to Health for response under section 15 of the FOIP Act.

On September 21, 2022, the Applicant requested that the Commissioner review the Public Body's failure to respond to the access requests.

The Adjudicator ordered the Public Body to respond to the Applicant's access requests.

**Statutes Cited:** **AB:** *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 6, 11, 15, 72

#### I. BACKGROUND

[para 1] On May 27, 2020, the Applicant made lengthy and detailed access requests for records to different public bodies. The access requests related to the Government of Alberta's implementation of COVID-19 measures and the evidence on which it had relied. The Public Bodies determined that the requests should be transferred to Health for response under section 15 of the FOIP Act.

[para 2] On September 21, 2022, the Applicant requested that the Commissioner review the Public Body's failure to respond to the access requests.

[para 3] The Commissioner sent the matter directly to inquiry.

## **II. Did the Public Body comply with section 11 of the FOIP Act (time limit for responding)?**

[para 4] Section 6(1) of the FOIP Act creates the "right of access". It states:

*6(1) An applicant has a right of access to any record in the custody or under the control of a public body, including a record containing personal information about the applicant.*

[para 5] Section 11 of the FOIP 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] Section 11 of the FOIP Act imposes a duty to make reasonable efforts to respond to an access request within 30 days of receiving it.

[para 7] In its submissions, the Public Body conceded that it has not responded to the Applicant. Given the time that has passed since the Applicant made the access requests, I conclude that it has not met the duty to respond to the Applicant created by section 11. As a result, I must direct it to respond to the Applicant's access requests.

## **III. ORDER**

[para 8] I make this Order under section 72 of the Act.

[para 9] I order the Public Body to respond to the Applicant within the terms of the FOIP Act with regard to each of the Applicant's access requests.

[para 10] I order the Public Body to notify me within 50 days of receiving this order that it has complied with it.

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Teresa Cunningham  
Adjudicator