

**ALBERTA
INFORMATION AND PRIVACY COMMISSIONER**

REQUEST TO DISREGARD F2022-RTD-03

April 7, 2022

TOWN OF CROSSFIELD

Case File Number 015409

- [1] The Town of Crossfield (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’s application for authorization to disregard the Applicant’s access request is dismissed. The Public Body must respond to the Applicant in accordance with FOIP.

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] During the course of my review of a request for authorization to disregard five access requests made by an individual in the decision reported as F2022-RTD-02, the Public Body received an access request from a related individual, the spouse, who is the Applicant in this matter.
- [5] The access request is for dash cam and audio footage of a particular Peace Officer picking up the Applicant’s son for a particular circumstance. The time frame of the request is for a particular date between the hours of 2:00 am and 3:44 am.

[6] The Public Body requested authorization to disregard this access request on the ground that it had already responded to this matter when her husband, the applicant in F2022-RTD-02 made the same access request. It provided a copy of the Applicant's husband's request, and its response. The request was for dash cam and audio footage of the Applicant's son being picked up by a Peace Officer on the same date for the same particular circumstance between the hours of 10:00 pm and 2:00 am.

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 relies, primarily, on the submissions it made in the related matter as well as the evidence of the Applicant's husband's similar previous access request and its response to that request.
- [9] The Applicant did not provide any submissions in this matter; however, in the related matter, F2022-RTD-02, her husband made submissions in this matter, to the extent that he asked that this matter be considered separately from his.
- [10] I agree that this decision should be issued separately, but, as in other Request to Disregard decisions, I find I may consider circumstances in a related file. For example, in one of this office's earliest Request to Disregard decisions, a public body was authorized to disregard access requests made by a third party that were similar to access requests made by an individual from whom the public body had already been authorized to disregard requests.¹
- [11] Notably however, the evidence before me in this matter, is that while the requests for dash cam and audio footage are the same, the time frame is different. The Public Body's response to the Applicant's husband's request specifies only that there are no records relating to the time frame he indicated, that is, 10:00 pm to 2:00 am. There is no evidence as to whether there may be responsive records for the time frame requested by the Applicant of 2:00 am to 3:44 pm.
- [12] Even if I were to consider the access requests of the spouses together, as the time frames are different in the access requests made by the Applicant and her husband, I find that these requests are not repetitious.

¹ Application by the Town of Ponoka to disregard an access Request made by an Applicant under the *Freedom of Information and Protection of Privacy Act*, 2002 at https://www.oipc.ab.ca/media/709852/Section_55_Ponoka_Aug2002.pdf See also: F2020-RTD-02, F2020-RTD-03 and P2021-RTD-01

- [13] The evidence before me is that the Applicant has made only one access request. Although the Public Body indicates that the Applicant's husband's systematic behaviour should be considered in this matter it has not provided further evidence or argument to support that position. Conversely, in his submissions in F2022-RTD-02, the husband argues against this, stating that his wife, the Applicant, is her own person and is free to make her own requests for her own reasons.
- [14] In previous decisions I have considered the actions of married spouses together in the context of access requests.² However, in this case there is insufficient argument or evidence before me to establish that the Applicant's husband's systematic behaviour should be considered for this access request. In any event, even if I were to consider the Applicant's husband's systematic behaviour in making his access requests, there is no argument or evidence before me that this is an abuse of the Applicant's right to make access requests.
- [15] The Public Body states that its responses to the Applicant's husband's access requests have unreasonably interfered with its operations, but, even if I were to consider the husband's behaviour, as I found in F2022-RTD-02, there is insufficient evidence before me to find that it has *unreasonably* interfered with its operations.
- [16] The Public Body has not met its burden under section 55(1)(a) of the FOIP Act. It has not made any submissions with respect to the Applicant under section 55(1)(b)

Decision

- [17] The Public Body is required to respond to the Applicant's access request in accordance with the FOIP Act.

Jill Clayton
Information and Privacy Commissioner

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² Alberta Motor Association, OIPC File Reference P1241, March 8, 2010 and Alberta Energy Regulator, OIPC File Reference 005876, July 27, 2018. Available online at www.oipc.ab.ca