

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2025-04

February 14, 2025

CALGARY POLICE SERVICE

Case File Number 036502

Office URL: www.oipc.ab.ca

Summary: An Applicant made an access request to the Calgary Police Service (Public Body) under the *Freedom of Information and Protection of Privacy Act* (FOIP Act), on June 17, 2024.

By November 2, 2024, the Public Body had not responded to the Applicant's request and the Applicant requested a review of the Public Body's failure to respond.

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. 8, 11, 14, 72

Authorities Cited: AB: Orders F2004-026, F2011-020, F2013-07, F2013-46

I. BACKGROUND

[para 1] The Applicant made an access request to the Calgary Police Service (Public Body) under the *Freedom of Information and Protection of Privacy Act* (FOIP Act), dated June 17, 2024, for the following:

All records as defined by Section 1(q) of the FOIPP Act, including but not limited to email, meeting minutes, Slack/Teams messages, that contain any reference to [the Applicant] either directly or indirectly.

This request includes, but is not limited to, communications from or to anyone in the Legal & Regulatory Services Division, Strategic Communications Section, Executive Officer Division, Records & Evidence Management Section and Professional Standards Section.

The time period for the request is September 7, 2023 to June 17, 2024.

[para 2] On November 2, 2024 the Applicant submitted a request to this office to review the Public Body's failure to respond to the request. The Commissioner decided to hold an inquiry on this matter.

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 January 22, 2025, 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 requires a public body to make every reasonable effort to respond to an access request no later than 30 days after receiving the request. Section 11 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] The Public Body must make every reasonable effort to respond to an access request in 30 days, subject to time extensions under section 14. In this case, the Applicant's request was dated June 17, 2024.

[para 7] The Public Body's submission to this inquiry states:

Please accept this as the Calgary Police Service's Submission for OIPC Inquiry 036502. The Calgary Police Service sent a request for clarification to the Applicant on January 31, 2025. As of today's date the Applicant has not responded. The Applicant's request is quite broad and covers aspects of other requests the Applicant has previously made. We asked to clarify the scope and the type of records requested.

If we do not hear back from the Applicant by March 3, 2025, we will abandon the request.

[para 8] The Public Body did not acknowledge that it exceeded the timelines in section 11 of the Act to respond to the Applicant. It is unclear whether the Public Body agrees it has missed its timelines and is using the submission as a means to inform the Applicant that he must respond to its request for clarification, or whether the Public Body means to indicate that it has not failed to meet its timelines for the reason that the Applicant has not responded to its request for clarification.

[para 9] Responding to access requests often involves clarifying the scope of the request with the applicant. Indeed, a public body's duty to assist under section 10 of the FOIP Act includes clarifying an access request where the scope is unclear (see Orders F2004-026, F2011-020, F2013-07, F2013-46).

[para 10] A public body must still process a request within the timelines set out in the Act. Section 14(1) of the FOIP Act permits a public body to extend its time to respond in certain circumstances, including where the public body requires further detail from the applicant regarding the request. It 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).*

[para 11] The Public Body has not indicated that it extended its time to respond under section 14(1)(a) or any other relevant provision.

[para 12] Given the date of the Applicant’s access request and the information before me, I find that the Public Body failed to make every reasonable effort to respond within the timelines provided in the Act.

[para 13] In its submission, the Public Body states that it will consider the Applicant’s request abandoned if the Applicant doesn’t respond to it by March 3, 2025. Section 8 of the FOIP Act permits public bodies to declare a request abandoned in certain circumstances. It states:

8(1) Where the head of a public body contacts an applicant in writing respecting the applicant’s request, including

(a) seeking further information from the applicant that is necessary to process the request, or

(b) requesting the applicant to pay a fee or to agree to pay a fee,

and the applicant fails to respond to the head of the public body, as requested by the head, within 30 days after being contacted, the head of the public body may, by notice in writing to the applicant, declare the request abandoned.

(2) A notice under subsection (1) must state that the applicant may ask for a review under Part 5.

[para 14] The Public Body indicates that the Applicant’s access request is broad and overlaps with other requests. Section 8 permits a public body to declare a request abandoned if the applicant does not respond to a request from the head of the public body for further information “necessary to process the request.” This provision addresses situations in which an access request is unclear such that the public body cannot process it. It does not include situations in which the request is capable of interpretation. In this case, the Applicant’s request may be broad but it also seems sufficiently clear to permit the Public Body to identify responsive records.

[para 15] Even so, it also seems prudent for the Applicant to respond to the Public Body’s requests for clarification, to help ensure the Public Body locates the records he is seeking.

V. ORDER

[para 16] I make this Order under section 72 of the Act.

[para 17] 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 obligations under the Act.

[para 18] 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