

**ALBERTA**

**OFFICE OF THE INFORMATION AND PRIVACY  
COMMISSIONER**

**ORDER FOIP2026-11**

February 27, 2026

**ALBERTA OMBUDSMAN**

Case File Number 022480

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

**Summary:** The Applicant made a request for access under the *Freedom of Information and Protection of Privacy Act* (the FOIP Act) to the Alberta Ombudsman (the Ombudsman) for records relating to complaints the Applicant had made to the Ombudsman regarding the Alberta Human Rights Commission.

The Ombudsman informed the Applicant that section 4(1)(d) of the FOIP Act applied to the records, but provided the Applicant with copies of the Applicant's correspondence.

The Applicant requested review by the Commissioner.

The Adjudicator found that the requested records were exempt from the application of the FOIP Act as they were in the custody or control of an Officer of the Legislature and related to the Officer's functions.

**Statutes Cited:** **AB:** *Freedom of Information and Protection of Privacy Act* R.S.A. 2000, c. F-25, ss. 4, 72; *Ombudsman Act* R.S.A. 2000, c. O-8, s. 14

**I. BACKGROUND**

[para 1] The Applicant made a request for access under the *Freedom of Information and Protection of Privacy Act* (the FOIP Act) to the Alberta Ombudsman (the Ombudsman) for

records relating to complaints the Applicant had made to the Ombudsman regarding the Alberta Human Rights Commission.

[para 2] The Ombudsman informed the Applicant that section 4(1)(d) (records to which the Act applies) of the FOIP Act exempted the requested records from the application of the FOIP Act; however, the Ombudsman provided the Applicant with all correspondence from the Ombudsman's office to the Applicant for the period of January 31, 2020 (the date of the complaint submission) to the date of the Ombudsman's response.

[para 3] The Applicant requested review of the Ombudsman's reliance on section 4(1)(d). The Commissioner agreed to conduct an inquiry and delegated the authority to conduct it to me.

[para 4] I determined that the Applicant should make submissions first in the inquiry. I also determined that I would make the decision as to whether I needed to hear from the Ombudsman once I reviewed the Applicant's evidence and submissions regarding the application of section 4(1)(d) to the requested records.

## **II. ISSUE: Are the requested records exempt from the FOIP Act by operation of section 4(1)(d)?**

[para 5] Section 4 exempts certain kinds of records from the scope of the FOIP Act. If records are subject to a provision of section 4 of the FOIP Act, the FOIP Act does not apply to them. When a provision of section 4 applies to records, the provisions of the FOIP Act governing access requests do not apply. In other words, the FOIP Act does not impose a duty on a public body to give access to records that are subject to a provision of section 4.

[para 6] Section 4(1)(d) of the FOIP Act states:

*4(1) This Act applies to all records in the custody or under the control of a public body, including court administration records, but does not apply to the following:*

*(d) a record that is created by or for or is in the custody or under the control of an officer of the Legislature and relates to the exercise of that officer's functions under an Act of Alberta [...]*

[para 7] The Ombudsman, to whom the Applicant made the access request, acts as an Officer of the Legislature when carrying out duties and exercising authority under the *Ombudsman Act* R.S.A. 2000, c. O-8 (the *Ombudsman Act*). One of those duties is to investigate complaints under section 14 of the *Ombudsman Act*. Complaints may be made about decisions by government bodies such as the Alberta Human Rights Commission. Any records relating to the Ombudsman's investigation under section 14 of the *Ombudsman Act* are subject to section 4(1)(d) of the FOIP Act.

[para 8] The Applicant's access request is one for records in the custody or control of the Ombudsman relating to an investigation by the Ombudsman under the *Ombudsman Act*. As a result, the records are in the custody and control of an Officer of the Legislature and relate to the performance of the Officer's functions. Section 4(1)(d) of the FOIP Act applies to them.

[para 9] The Applicant provided submissions for the inquiry, but the submissions do not address the question of whether the requested records are subject to the FOIP Act and do not raise any issues that could be addressed by the Commissioner under the legislation over which the Commissioner has oversight.

[para 10] I find that the Applicant's access request is for records that are exempt from the application of the FOIP Act. As a result, I must find that the Ombudsman is not required by the FOIP Act to provide access to the records requested by the Applicant.

### **III. ORDER**

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

[para 12] I confirm that the requested records are exempt from the application of the FOIP Act and that the Ombudsman is not required to provide access to them to the Applicant.

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Teresa Cunningham  
Adjudicator