

**ALBERTA**

**OFFICE OF THE INFORMATION AND PRIVACY  
COMMISSIONER**

**ORDER F2004-020**

December 16, 2004

**EDMONTON POLICE SERVICE**

Review Number 2920

Office URL: <http://www.oipc.ab.ca>

**Summary:** The Applicant made an access request under the *Freedom of Information and Protection of Privacy Act* for all information about him in the custody of the Edmonton Police Service (the “Public Body”). The Public Body responded to the Applicant, saying that they did not have any records related to him. The Applicant refuted this position on the basis that the Public Body was stalking him and therefore must be in possession of information related to him. The Adjudicator found that the Public Body conducted an adequate search for responsive records and thereby meet its duty to the Applicant, as provided by section 10(1) (duty to assist) of the Act.

**Statutes Cited:** *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 10(1), and 72.

**I. BACKGROUND**

[para 1] On January 15, 2004, the Applicant made the following access request to the Edmonton Police Service (the “Public Body”) under the *Freedom of Information and Protection of Privacy Act* (the “Act”):

“I need all information about me which Edmonton City Police has.”

[para 2] By letter, dated January 22, 2004, the Public Body responded to the Applicant that a search of the main database had not located any records associated with the Applicant’s name. As a result of a telephone conversation with the Applicant, the

Public Body searched the Internal Affairs Section of the Public Body. The Public Body stated that the only records located at Internal Affairs were the Applicant's emails to Internal Affairs and their responses to the Applicant, which were transmitted after the Applicant's access request.

[para 3] In a letter, dated January 27, 2004, the Applicant requested a review by this Office of the Public Body's response to his access request. Mediation was authorized, but was not successful.

## **II. RECORDS AT ISSUE**

[para 4] There are no records at issue in this inquiry.

## **III. ISSUE**

[para 5] There is one issue for this inquiry:

Did the Public Body conduct an adequate search for responsive records and thereby meet its duty to the Applicant, as provided by section 10(1) of the Act?

## **IV. DISCUSSION OF THE ISSUE**

[para 6] Section 10(1) of the Act states:

*10(1) The head of a public body must make every reasonable effort to assist applicants and to respond to each applicant openly, accurately and completely.*

[para 7] The Applicant is not satisfied with the Public Body's position that it does not have any records which are responsive to the Applicant's request. The Applicant's concerns can best be addressed by a review of the thoroughness of the Public Body's search.

[para 8] The Public Body stated that it initially did a search of its database for the Applicant's name. As evidenced by a copy of the printout of the search screen, submitted "in camera", a search for the Applicant's name turned up nothing related to the Applicant. The Public Body stated that it learned from the Applicant that he had been in contact with the Public Body's Internal Affairs Section.

[para 9] When a subsequent search was made in Internal Affairs, the only records relating to the Applicant held by Internal Affairs were emails from the Applicant and responses back to him. The Applicant's first email was dated January 18, 2004, three days after his access request. Therefore, all of the emails and subsequent written

correspondence held by Internal Affairs, referred to later in this Order, are not responsive to the Applicant's access request.

[para 10] In the Applicant's email to Internal Affairs, he outlined a series of events which he feels support his belief that the Public Body is conducting surveillance on him. Consequently, the Applicant believed that the Public Body must have information about him.

[para 11] The Public Body indicated that as a result of the content of Applicant's first email, the head of Internal Affairs sent an email to Campus Security at the University of Alberta to determine whether they had any knowledge of the Applicant and his concerns about being under surveillance. The email response to Internal Affairs indicated that the Applicant had made a report of an apparent intrusion into his room while staying in residence at the university.

[para 12] Copies of these emails were attached to the Public Body's initial submission to this inquiry. A copy of the Public Body's submission was sent to the Applicant by this Office as part of the inquiry process. Therefore, even though the emails are not responsive to the Applicant's access request, the Public Body has chosen to share them with the Applicant through their submission to this inquiry.

[para 13] Subsequent to the email communication between the Applicant and Internal Affairs, the Applicant wrote to the Public Body and made a complaint concerning his allegations of stalking. The Public Body included copies of this correspondence with their submission. The Applicant also received copies through the inquiry process.

[para 14] The Public Body pointed out in its rebuttal that, if anything, the Applicant's allegations of stalking amount to a complaint against the police, which is handled in a different process. I conclude that the Public Body submitted the correspondence surrounding the Applicant's complaint as evidence that they are not attempting to hide anything from the Applicant. The Internal Affairs investigation has no relevance to the issue for this inquiry.

[para 15] In his written submission, the Applicant made the following statements:

My problem is a criminal incident which has been committed by the Edmonton Police for one year. The crime is a violation of Criminal Code 264 criminal harassment. I call it stalking in this article.

The primary form of stalking is as follows. The police informed something about me to my neighbor people. When I leave my house, some of my neighbors inform my leaving and my direction. In less than five minutes [sic], patrol cars appear. The rate of appearance is 70 percent. Sometimes they stop on the road near me. Sometimes they blow the siren near me with no reason. Sometimes they drive on the left side of the road to pass me.

[para 16] The Applicant went on to state:

I don't have strong evidence, but I am the victim and the witness. Therefore the stalking really exists and my private information really exists with the police.

[para 17] As evidence to support the Applicant's position, he sent a copy of a digital photograph with the following accompanying explanation:

I attach a picture to present a patrol car on a floppy disk. The most clear stalking was done on Nov. 15<sup>th</sup>. That day was a special day for the stalking. I didn't go to school since late August for nearly three months, and didn't go out everyday during that term. On the last day (Nov. 14<sup>th</sup>), I went to a glasses shop [business name] on 97street. I had to go to the shop the next day (Nov.15<sup>th</sup>) to receive a glasses [sic]. I went out of my house at almost the same time as the last day. I saw a patrole [sic] car was stopping near my house [street number]. I went back to my room and took a picture from the window. (around 4:00pm) The place where the patrol car was stoping [sic] was good place to overwatch [sic] my window. And I went to the shop and went back to my house about 30 minutes later. The patrol car was still there. About one minute after I went back, it went away. (around 4:30pm) I think it is obvious that the master of the shop (He is a Chinese) informed the police that I would come again...

[para 18] The picture supplied by the Applicant clearly shows a marked Edmonton Police Service patrol car parked on a residential street in an older part of the city. The picture appears to have been taken from the second floor of a house which is the second house back from the side street on which the vehicle is parked. There is a clear view of the car from the Applicant's vantage point. However, the picture appears to have been taken by the Applicant hanging out the window and the window is at right angles to the street. In other words, it is unlikely that anyone would be able to see into the Applicant's window from the location where the car is parked.

[para 19] The Applicant has offered clear evidence that a police car was parked on the street near his home. However, even with the events he describes, it is difficult to conclude that the only explanation for the presence of the police car is for the purpose of conducting surveillance or "stalking" the Applicant. There are many other reasonable explanations for the car's presence.

[para 20] The Applicant has also concluded that the sighting of many police vehicles in his neighborhood is further evidence that the Public Body has him under surveillance. I note that the Applicant lives in what could be best described as the "inner city", a relatively short distance from the Police Headquarters. It is difficult for me to conclude that there is a direct relationship between the presence of police vehicles and the Applicant's contention that he is being stalked by the police.

[para 21] In his rebuttal, the Applicant argued that the information contained in the emails to and from Campus Security from Internal Affairs is proof that police have information about him. Campus Security is not a part of the Public Body, but rather a part of the University of Alberta. While there may be evidence that Campus Security was aware of the Applicant prior to the request from Internal Affairs, there is no evidence that the Public Body had any responsive records about the Applicant at the time of the search.

[para 22] I respect that the Applicant maintains a belief that all of the evidence supports his position that the Public Body must have records containing information about him. However, a strong belief that something is true does not, by itself, make it true. The evidence before me does not cause me to reach the same conclusion regarding the existence of responsive records held by the Public Body. The Applicant has not demonstrated that it is reasonably likely that the Public Body is in custody of responsive records.

[para 23] I find that the Public Body has met its burden to outline how the search was conducted and to demonstrate that the search was thorough. The Public Body has also offered evidence to support its conclusion that it is not in possession of responsive records about the Applicant. I find that the Public Body is not in custody of responsive records.

## **V. ORDER**

[para 24] I make the following Order pursuant to section 72 of the Act.

[para 25] I find that the Public Body conducted an adequate search for records, thereby meeting its duty to respond to the Applicant, as provided by section 10(1) of the Act.

Dave Bell  
Adjudicator