

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2009-012

September 10, 2009

**THE BOARD OF TRUSTEES OF
EDMONTON SCHOOL DISTRICT NO. 7**

Case File Number F4229

Office URL: www.oipc.ab.ca

Summary: The Applicant submitted an access request to the Public Body for records related to his sons as well as himself and his spouse. The Public Body identified a significant number of responsive records, which the Applicant viewed prior to selecting those of which he wanted copies. Subsequently, the Applicant inquired as to other specific records, which in turn were located and produced subject to applicable severing. The Applicant posited that the initial omission of those additional records, along with the alleged omission of records authored by particular individuals, showed that the Public Body had failed to conduct an adequate search for records, as required by section 10(1) of the *Freedom of Information and Protection of Privacy Act*.

The Commissioner found that the Public Body had conducted an adequate search for records in response to the access request. He emphasized that the standard required of the Public Body in searching for responsive records is reasonableness, not perfection. The Public Body compiled a list of internal individuals from whom responsive records were sought. As well, the Public Body communicated with the Applicant on several occasions to identify individuals who may have had responsive records, to provide copies of the responsive records as determined by the Applicant, including copies of those that had been omitted initially, and to address the Applicant's concerns regarding the production of records. In particular, upon reviewing those responsive records of which the Applicant did not request copies, the Commissioner noted that they included some authored by the very individuals whose records the Applicant stated had been excluded,

which, the Applicant said, showed that the Public Body's search was inadequate. The Commissioner also noted that the responsive records the disclosure of which was delayed constituted only a small fraction of the entire body of responsive records and were produced to the Applicant shortly after he requested them expressly. Because the Public Body's search for responsive records was adequate, the Commissioner made no order against it in this inquiry.

Statutes Cited: AB: *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 1, 6, 10; *School Act*, R.S.A. 2000, c. S-3, ss. 1, 246.

Orders Cited: AB: Orders 98-003, F2002-016, F2007-028, F2007-029, F2009-001.

Court Cases Cited: n/a.

I. BACKGROUND

[para 1] The Applicant and his spouse (together, the "Couple") have two minor sons (the "Sons").

[para 2] The Couple, as the parents and legal guardians of the Sons, submitted an access request dated June 15, 2007 under the *Freedom of Information and Protection of Privacy Act* (the "FOIP Act" or the "Act") to the Public Body (the "Access Request"). The Access Request was for, in part:

All information related to the education of [each of the Sons for the specified period of time]. This includes but is not limited to:

- a. All files or other collections of information, both formal and informal, of any department or employee of [the Public Body].
- b. All written email or other communication about [each of the Sons], either addressed to or sent from employees of [the Public Body] including school staff and management, Leadership Services, Outreach, ESHIP and STEP staff. This includes any personal records or notes held by [Public Body] employees in relation to the above communications.
- c. Invoices for all internal or external billing for services provided either directly to, or in any way related to [each of the Sons], including a description of the service received.

The Couple requested the aforementioned records for the period September 1, 2003 to the date of the Access Request in respect of one Son and for the period July 1, 2005 to the date of the Access Request in respect of the other Son. The Access Request was also for:

All communications that in any way mentions [*sic*] [the Applicant] or [his spouse], including but not limited to written documents, notes and email. This includes communications between [Public Body] employees, and communications between [Public Body] employees and individuals external to [the Public Body].

[para 3] The Access Request was addressed to the FOIP Coordinator for the Public Body (the “FOIP Coordinator”) and, except where the contrary is expressly indicated, all of the Public Body’s communications with the Applicant or the Couple regarding the Access Request were effected through the FOIP Coordinator.

[para 4] The FOIP Coordinator identified numerous records as responsive to the Access Request (the “Responsive Records”), as discussed below. The Applicant or the Couple reviewed the bulk of the Responsive Records, and requested and received copies of some of them (the “Requested Responsive Records”). In other words, at the request of the Couple based on their own determination as to which of the Responsive Records they did and did not want, not all of the Responsive Records identified, then offered to and viewed by the Couple, were photocopied and provided in response to the Access Request. The majority of the Requested Responsive Records were forwarded under cover of the Public Body’s letter dated July 23, 2007; additional Requested Responsive Records were forwarded on August 28, 2007, September 5, 2007 and September 11, 2007.

[para 5] By letter dated September 20, 2007 and received September 24, 2007, the Applicant requested that I review the Public Body’s response to the Access Request (the “Request for Review”). I authorized mediation, which was unsuccessful, and the matter was set down for a written inquiry. The Public Body provided me with an initial submission in the inquiry, including an affidavit sworn by the FOIP Coordinator; as well, the Public Body provided additional records, documentation and explanations to me at my request in this inquiry. The Applicant did not provide any submission or evidence in the inquiry, although he did provide some limited argument in the Request for Review, as detailed below.

[para 6] I note that the Notice of Inquiry issued by my office in this matter on December 3, 2008 identified the Public Body as “Edmonton Public School Board District #7”. However, the FOIP Act defines a “public body” to include “a local public body” [section 1(p)(vii)], which in turn is defined to include “an educational body” [section 1(j)(i)], which then includes “a board as defined in the *School Act*” [section 1(d)(v)]. Section 1(1)(b) of the *School Act*, R.S.A. 2000, c. S-3, provides that “‘board’ means a board of trustees of a district or division”; see also section 246 of the *School Act*. When my Registrar of Inquiries sought clarification in this regard, counsel for the Public Body confirmed by letter dated August 28, 2009 that the Public Body’s proper corporate name is “The Board of Trustees of Edmonton School District No. 7”. Accordingly, notwithstanding the misnomer in the said Notice of Inquiry, for the purposes of this review in its entirety, including but not limited to this inquiry and, in particular, this Order, the Public Body is “The Board of Trustees of Edmonton School District No. 7”.

II. RECORDS AT ISSUE

[para 7] As this inquiry relates to adequacy of search, there are no records at issue *per se*.

[para 8] I note that, for the purposes of this inquiry, the Public Body provided me with in excess of 1,300 copied pages of Requested Responsive Records. Also during this inquiry, I, along with my counsel, attended at the offices of the Public Body to view all of the Responsive Records, with particular attention to certain of the Responsive Records that were offered to, but copies of which were not requested by, the Applicant or the Couple.

III. ISSUE

[para 9] The Notice of Inquiry identifies one issue in this inquiry:

A. Did the Public Body meet its duty to the Applicant, as required by section 10(1) of the Act? *In this case, the Commissioner will consider whether the Public Body conducted an adequate search for responsive records.*

IV. DISCUSSION OF THE ISSUE

A. **Did the Public Body meet its duty to the Applicant, as required by section 10(1) of the Act? *In this case, the Commissioner will consider whether the Public Body conducted an adequate search for responsive records.***

[para 10] Section 6 of the FOIP Act provides a right of access to information held by a public body:

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.

(2) The right of access to a record does not extend to information excepted from disclosure under Division 2 of this Part, but if that information can reasonably be severed from a record, an applicant has a right of access to the remainder of the record.

(3) The right of access to a record is subject to the payment of any fee required by the regulations.

...

[para 11] Section 10 of the Act then explains the obligations of a public body in responding to an access request, including:

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 12] In Order F2007-028, I quoted section 10 of the Act and then stated:

Consequently, the Public Body has the onus to establish that it has made every reasonable effort to assist the Applicant. Previous orders of my office have established that the duty to assist includes the duty to conduct an adequate search for records. In Order 2001-016, I said:

In Order 97-003, the Commissioner said that a public body must provide sufficient evidence that it has made a reasonable effort to identify and locate records responsive to the request to discharge its obligation under section 9(1) (now 10(1)) of the Act. In Order 97-006, the Commissioner said that the public body has the burden of proving that it has fulfilled its duty under section 9(1) (now 10(1)).

Previous orders...say that the public body must show that it conducted an adequate search to fulfill its obligation under section 9(1) [now 10(1)] of the Act. An adequate search has two components: (1) every reasonable effort must be made to search for the actual record requested and (2) the applicant must be informed in a timely fashion about what has been done.

It follows that, to successfully respond to the issue as to the adequacy of its search under section 10 of the Act, the Public Body must prove that (1) it made every reasonable effort to identify and locate records responsive to the Access Request, and (2) it informed the Applicant, in a timely fashion, of the steps it took in doing so. As found in Order F2002-016, those criteria must be proven on a balance of probabilities.

[para 13] In Order F2007-029, I said:

In general, evidence as to the adequacy of a search should cover the following points:

- The specific steps taken by the Public Body to identify and locate records responsive to the Applicant's access request
- The scope of the search conducted – for example: physical sites, program areas, specific databases, off-site storage areas, etc.
- The steps taken to identify and locate all possible repositories of records relevant to the access request: keyword searches, records retention and disposition schedules, etc.
- Who did the search
- Why the Public Body believes no more responsive records exist than what has been found or produced

[para 14] Although he provided no submission in this inquiry, in his Request for Review the Applicant wrote:

...

I am concerned that not all documents requested have been produced. You will note that in my original request for documents dated 15 June 07, that [*sic*] Outreach and STEP staff were named as potential document holders. I was specifically looking for testing protocols (raw data scores), created and used by the Outreach Occupational Therapist, [Name1], in her assessment of my son [Name]. The validity of this assessment is in contention, and the supporting documents were not initially disclosed when I received the others on 23 July 07.

After submitting a letter to the [external entity] regarding the conduct of [Name1], wherein I mention that my FOIP request of [the Public Body] did not return the raw data scores or testing protocols that were used by [Name1], these documents were located. ... [Name1] also provided additional documents, referenced in the letter from [the Public Body] dated 11 Sep 07, which indicates that they were unintentionally omitted.

I suspect that there are other documents that have been withheld. There should have been documents produced by other Outreach therapists, including [Name2] (SLP), [Name3] (PT), and [Name4] (SLP) with the STEP program.

Further, an accident report referenced in the [the Public Body's] letter dated 18 Sep 07, was not initially produced, but was subsequently located after I specifically asked for it. [The Public Body] cannot explain how it disappeared en route to Financial Services.

...

Did the Public Body make every reasonable effort to identify and locate records responsive to the access request?

[para 15] The evidence of the Public Body is that the FOIP Coordinator coordinated the search for Responsive Records on its behalf. Her affidavit identifies the steps taken in response to the Access Request and appends as exhibits numerous internal and external communications in this regard. (I note that the attachments to two of the letters appended as exhibits to the FOIP Coordinator's affidavit were omitted but were subsequently provided to me at my request during the inquiry, and my office then forwarded them to the Applicant.) The following is a summary of the Public Body's evidence, which is uncontested in this inquiry.

General

[para 16] The Public Body received the Access Request on June 19, 2007. On June 20, 2007, the FOIP Coordinator identified ten (10) individuals who she believed might possess records responsive to the Access Request and contacted them (and other named but otherwise unidentified individuals) via email to request their assistance in locating and remitting all such Responsive Records and in identifying all other Public Body personnel who might have Responsive Records. Notwithstanding one minor and, given

their working relationship and respective functions, inconsequential discrepancy as between an individual identified by the FOIP Coordinator in her affidavit (the Superintendent's secretary) and the corresponding individual named in the list appended to her letter of June 20, 2007 (the Superintendent), I will refer to these employees as the "Identified Employees".

[para 17] By letter of the same date to the Couple, the Public Body acknowledged receipt of the Access Request and confirmed its scope. The Public Body also attached the list of the Identified Employees and asked the Couple to advise of any additional staff who should be contacted in respect of the Access Request.

[para 18] On June 25, 2007, the FOIP Coordinator conferred with the Applicant to determine whether there were any employees of the Public Body in addition to the Identified Employees who should have been contacted regarding the Access Request. The Applicant identified two (2) such further employees, whom I will refer to as the "Additional Employees", and to whom the FOIP Coordinator emailed a request for records that same day.

[para 19] The Identified Employees and Additional Employees were individuals holding positions in various sectors and at differing levels of the Public Body. Although in his Request for Review the Applicant took issue with the Public Body's failure to obtain Responsive Records from three particular employees of the Public Body, I located no evidence or indication that he had specifically or expressly identified those particular employees to the Public Body at any time prior to his Request for Review.

[para 20] By letter dated July 9, 2007, the FOIP Coordinator advised the Couple of the number of pages of Responsive Records that had been collected to that date (being in excess of 3,200 pages) and of the concomitant cost. The FOIP Coordinator confirmed the Couple's previous advice that "[they] did not require copies of the student records or documents from the Transportation Department" and continued that "[a]n inventory of all other documents collected are [*sic*] included with this letter. If you wish to narrow your request to specific records, your costs would be reduced accordingly." The letter also confirmed that the Public Body had contacted third parties whose interests may be affected by any disclosure of the Responsive Records.

[para 21] On July 23, 2007, the Couple met with the FOIP Coordinator to review the Responsive Records provided by the Identified Employees and the Additional Employees. The Couple selected those records they wanted, and the Public Body provided copies of such records (being the Requested Responsive Records) to them under cover of the FOIP Coordinator's letter dated July 23, 2007. This letter also attached a spreadsheet setting out the following information on a record-by-record basis: number, date, document description, number of pages, number of pages provided to the Couple, content and document provider. In the letter, the FOIP Coordinator advised the Couple that, in responding to the Access Request, "[t]he process we used was to contact all likely parties who would have records related to your request" and that the Couple should contact her if they felt that the request had not been answered completely, if they required

further clarification or if she could be of further assistance to them. The Public Body provided in excess of 1,300 pages of Requested Responsive Records to the Couple under cover of this letter, and acknowledged receipt of payment for same.

The Accident Report

[para 22] On July 24, 2007, the Applicant telephoned the FOIP Coordinator to ask questions about some of the records and some of the severing. He also indicated that an accident report from May of 2007 (the "Accident Report") was not included in the Responsive Records; the FOIP Coordinator said she would follow-up in that regard, which she confirmed by her letter of July 24, 2007 (erroneously dated July 23, 2007). In that letter, the FOIP Coordinator also reiterated to the Couple that they should contact her if they felt that their request had not been answered completely or if they required further clarification.

[para 23] On July 24, 2007, the FOIP Coordinator contacted the principal (the "Principal") of a school of the Public Body (the "School"), who was one of the Identified Employees, to inquire as to the Accident Report. The Principal was unable to locate the Accident Report and indicated that the School's administrative assistant would know where it was but that she was on vacation until August 28, 2007.

[para 24] Also on July 24, 2007, the FOIP Coordinator emailed an employee of the Public Body in one of its departments, as she thought that he might have a copy of the Accident Report. That particular employee was on vacation, and so the FOIP Coordinator emailed another of the Identified Employees who was from the same department, and that Identified Employee advised by telephone that the department did not have a copy of the Accident Report.

[para 25] The FOIP Coordinator emailed the School's administrative assistant on August 9, 2007 to request a copy of the Accident Report. The administrative assistant and the FOIP Coordinator spoke on the telephone on August 28, 2007, at which time the administrative assistant recalled forwarding a copy of the Accident Report to the aforementioned department. The administrative assistant also explained that the Accident Report had not been included in the batch of records forwarded to the FOIP Coordinator in response to her initial call for records because it was not in the School's educational files but on another file. The FOIP Coordinator received the Accident Report from the administrative assistant that same day and forwarded a copy of it in its entirety to the Applicant on August 28, 2007.

[para 26] In her letter to the Couple dated September 18, 2007 (not exhibited in her affidavit but attached to the Request for Review), the FOIP Coordinator stated:

In regards to our telephone conversation on September 11, 2007, your initial question on Sept 10, 2007 was to determine why [the department] did not provide the Accident Report regarding an incident that happened at [the] School in May 2007. While your question is outside of my role as FOIP Coordinator, I did contact the [S]chool and they clearly recollect sending the form to [the department]. However, [the department], [sic]

did not have any record of having received it. We can not [sic] offer any explanation for the anomaly.

The Testing Protocol and the OT Summary

[para 27] On August 20, 2007 the Applicant contacted directly another of the Identified Employees (not the FOIP Coordinator) to request the raw data scores (the "Testing Protocol") that had been used to prepare the Developmental Test of Visual Perception Summary (the "OT Summary") for the 2005-2006 school year in respect of one of the Couple's Sons. On August 21, 2007 that Identified Employee contacted the School to obtain the Testing Protocol and determined that the occupational therapist who had prepared the OT Summary (the "Occupational Therapist", referred to by name in the Request for Review and as 'Name1' in the above excerpt), and who therefore was the only person in possession of the Testing Protocol, was away until August 28, 2007.

[para 28] At the time, it was the practice that occupational therapists employed by the Public Body maintained their own files in their own possession. Accordingly, as at the date of the FOIP Coordinator's initial call for records, the OT Summary was in the possession of the Occupational Therapist, not the School, and as such it was not remitted to the FOIP Coordinator at the outset.

[para 29] The FOIP Coordinator obtained the OT Summary from the Occupational Therapist and then forwarded it to the Couple under cover of her letter dated September 5, 2007. The Testing Protocol was severed under section 26 of the Act, which severing is not challenged and is not at issue in this inquiry. However, the FOIP Coordinator swears in her affidavit that she offered to have someone competent review the Testing Protocol with the Applicant.

[para 30] Upon locating the Testing Protocol, the Occupational Therapist searched her records further, located an additional record and provided it to the FOIP Coordinator, who considered it responsive to the Access Request and forwarded it to the Applicant on September 11, 2007. The covering letter indicated that this Responsive Record had been previously omitted unintentionally.

Other

[para 31] The FOIP Coordinator was advised by the Principal of the School that a computer technician was hired at the end of June, 2007 to search thoroughly for electronic records relating to the Access Request.

[para 32] Although not directly relevant in this inquiry given the timeframe, I am advised that, on or about November 15, 2007, the FOIP Coordinator met with the Principal to discuss the School's response to the Access Request and what had been learned as a result. As well, the Principal had previously arranged for the FOIP Coordinator to train School staff about the FOIP Act, the FOIP process and record management, and he also arranged for the Public Body's District Records & FOIP Management Department to complete an inventory of School records.

Analysis

[para 33] As stated in Order 98-003 and subsequent orders of my office, whether or not an adequate search was conducted must be determined based on the facts of the particular case. Section 10(1) of the Act requires the Public Body to make every reasonable effort to assist the Applicant and to respond openly, accurately and completely; as clearly stated in section 10(1), and as discussed in numerous of my office's orders, the applicable standard required of the Public Body is reasonableness, not perfection.

[para 34] Importantly, the Applicant submitted no evidence or argument beyond the Request for Review contradicting that of the Public Body in respect of the adequacy of the Public Body's search.

[para 35] Applying the FOIP Coordinator's affidavit evidence to the requisite criteria to prove adequacy of search identified in Order F2007-029, I observe the following:

- To identify and locate Responsive Records, the FOIP Coordinator requested that the Identified Employees, who she surmised might possess Responsive Records, locate and return to her all such records and identify all other employees who might have Responsive Records. She also conferred with the Applicant and contacted the Additional Employees for Responsive Records. Although I have little or no information as to particulars of the steps actually taken by the Identified Individuals and the Additional Individuals in searching for Responsive Records, it is evident that many records were, in fact, returned to the FOIP Coordinator by many or all of them in response to her internal request for records. When the Applicant queried the Accident Report, the FOIP Coordinator followed up with the School and with another department, obtained the Accident Report and provided it to the Applicant as soon as practicable. When the Applicant queried the Testing Protocol and the OT Summary, the FOIP Coordinator obtained the OT Summary from the Occupational Therapist and provided it to the Applicant as soon as practicable (the Testing Protocol was severed); this led the Occupational Therapist to search her files and locate another Responsive Record, which the FOIP Coordinator also provided to the Applicant.
- In terms of its scope, the search for Responsive Records was conducted by various employees of the Public Body located within many of its departments and/or sectors and placed at varying levels of the Public Body's hierarchy. Further, the Occupational Therapist searched her records and a computer technician conducted a thorough search for electronic records at the School.
- To identify and locate all possible repositories of Relevant Records, the FOIP Coordinator identified the Identified Employees, who worked in various areas throughout the Public Body. She also elicited the input of the Applicant, which

led her to contact the Additional Employees. Further, the Applicant's query about the OT Summary and Testing Protocol led to a search of the Occupational Therapist's files.

- Searches for Responsive Records were conducted by the Identified Individuals, the Additional Individuals, the Occupational Therapist, and a computer technician, all coordinated by the FOIP Coordinator.
- The Public Body offered no comment as to whether or not it believes that no Responsive Records exist in addition to those found or produced, nor did it offer any basis for any such belief.

It is unfortunate that the Public Body did not specifically address these criteria on the facts of this case and, in particular, did not provide adequate evidence on each of these criteria in this inquiry. Still, I have before me some evidence, which is not contradicted by the Applicant, on most of these points.

[para 36] In Order F2009-001, an Adjudicator with my office held that it may not always be necessary for a public body to provide an applicant with information on each of these points in order to meet its obligation to inform the applicant of what was done to search for responsive records. I agree. In this case, the FOIP Coordinator briefly described to the Applicant in writing the process the Public Body used to compile the Responsive Records, and repeatedly invited him to contact her if he felt the Access Request had not been answered completely or if he required further clarification or assistance. Indeed, as discussed, the FOIP Coordinator and the Applicant communicated on numerous occasions throughout the process regarding the missing records and the Applicant's concerns about the adequacy of the Public Body's search for Responsive Records.

[para 37] While the circumstances surrounding the delayed production of a few particular Responsive Records are of some concern, I note that these only constitute a minute fraction of the entire body of Responsive Records. I also note that these records were produced to the Applicant shortly following his express inquiries regarding them. I suspect this is not an uncommon scenario when a large public body is searching in numerous internal areas for a great many records responsive to a significant access request. In the overall context of the Public Body's efforts in responding to the Access Request, I decline to find that the omission of these few records in the first instance renders the Public Body's search for records inadequate or unreasonable.

[para 38] Further, I note that the table of records prepared by the Public Body indicates that, out of 661 records listed, 323 records—nearly half—were “not requested”. In other words, the FOIP Coordinator collected and reviewed 661 records in the process of responding to the Access Request, whereas the Couple selected only 323 Requested Responsive Records.

[para 39] Early in this inquiry it was difficult to analyze the Applicant's concern that records produced by Outreach therapists, including in particular three (3) individuals from the STEP program (all of whom were referred to by name by the Applicant in his Request for Review and are referred to as 'Name2', 'Name3' and 'Name4', respectively, in the above excerpt from it), had been withheld, for two reasons that compounded each other: first, the Applicant had not identified or detailed in any way such records other than to name the authors (nor did he expressly identify any other authors, although he indicated he was expecting records from others "including" the individuals he named); and second, the Public Body initially produced to me in this inquiry copies of the Requested Responsive Records but not copies of those Responsive Records that the Applicant or Couple did not request. Because it appeared that some of the "not requested" Responsive Records may, in fact, be records authored by those same three (3) individuals from the STEP program, I attended at the offices of the Public Body with my legal counsel in the course of this inquiry to review the entire body of Responsive Records, with specific attention to certain of those of which the Applicant did not request copies when he personally reviewed them. At that time, we located records authored by 'Name2', 'Name3' and the Occupational Therapist ('Name1') that had been identified as responsive and offered to the Applicant, but were not requested by him. These are in addition to records authored by 'Name2' and 'Name4', and one co-authored by the Occupational Therapist ('Name1') (other than the OT Summary, Testing Protocol and the final record she produced in response to the Access Request), that were included in the Requested Responsive Records taken by the Couple. The Responsive Records, including both the Requested Responsive Records and those Responsive Records that were not requested, also included records authored by other therapists and practitioners in respect of the Couple's Sons. I therefore find no legitimacy to this aspect of the Applicant's position.

[para 40] Accordingly, I find that the Public Body has proven, on a balance of probabilities, that it made every reasonable effort to identify and locate records responsive to the Access Request, as required by the Act.

Did the Public Body inform the Applicant, in a timely fashion, of the steps it took in responding to the Access Request?

[para 41] Upon receiving the Access Request, the FOIP Coordinator determined that the ten Identified Employees might possess Responsive Records. The FOIP Coordinator listed the Identified Employees in her acknowledgement letter sent to the Couple the day after the Public Body received the Access Request. Five (5) days later the FOIP Coordinator conferred with the Applicant regarding potential sources of Responsive Records, and the Applicant identified the two (2) Additional Employees who were then canvassed for Responsive Records.

[para 42] The FOIP Coordinator's aforementioned letter to the Couple dated July 23, 2007, to which was attached the spreadsheet inventory of Responsive Records and approximately 1,330 pages of Responsive Records themselves, states, in part: "The

process we used was to contact all likely parties who would have records related to your request.”

[para 43] The FOIP Coordinator’s sworn evidence is that she spoke with the Applicant several times between July 24 and September 17, 2007 regarding the missing records and to address the Applicant’s concerns that records had not been provided in response to the FOIP Coordinator’s initial call for records. I have no knowledge of the particulars of such discussions between the FOIP Coordinator and the Applicant.

[para 44] Several pieces of documentary evidence appended as exhibits to the FOIP Coordinator’s affidavit display that the Public Body, through the FOIP Coordinator, remained available and willing to work with the Applicant in thoroughly responding to the Access Request.

[para 45] In any event, this aspect of the adequacy of the Public Body’s search for Responsive Records does not appear to be of concern to the Applicant.

[para 46] I therefore find that the Public Body has proven, on a balance of probabilities, that it informed the Applicant, in a timely fashion, of the steps it took in identifying and locating the Responsive Records.

V. ORDER

[para 47] I find that the Public Body conducted an adequate search for Responsive Records. Because the Public Body complied with the requirements of section 10(1) of the FOIP Act, I do not find it necessary to make any order as against it in this inquiry.

Frank Work, Q.C.
Information and Privacy Commissioner