

ALBERTA

OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER

ORDER F2016-17

May 18, 2016

ALBERTA JUSTICE AND SOLICITOR GENERAL

Case File Number 002664

Office URL: www.oipc.ab.ca

Summary: On July 21, 2015, the Applicant made an access request to Alberta Justice and Solicitor General (the Public Body) for the entire file of a named individual with a specific ASIRT file number.

The Public Body, in submissions to the inquiry, acknowledged that it failed to meet the time limit for responding to an access request as required by section 11 of the Act. The Adjudicator ordered the Public Body to respond to the Applicant's access request.

Statutes Cited: **AB:** *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 11, 72.

I. BACKGROUND

[para 1] The Applicant made an access request under the *Freedom of Information and Protection of Privacy Act* (the Act) dated July 21, 2015 to Alberta Justice and Solicitor General (the Public Body) for the following:

The entire file of [named individual], ASIRT File No. [specific file number] (including the file report, all investigation documents, photographs, interview notes, and investigation materials).

[para 2] The time period for the requested records was August 2013 to present (July 21, 2015).

[para 3] The Applicant requested a status update on the request on November 12, 2015. At that time, the Public Body advised the following:

- The file was late due to the volume of requests received by the Public Body
- All fees associated with the request will be waived

[para 4] On January 22, 2016, the Public Body advised the Applicant it would process the final report on an expedited basis and provide the remainder of the records in a second release.

[para 5] On March 1, 2016, the Public Body provided the Applicant with the final report records and indicated the remainder of the records would be processed at a later date.

[para 6] On March 18, 2016, the Applicant asked the Public Body if the remainder of the records would be provided within 50 days. The Public Body, on March 31, 2016, responded:

Unfortunately, due to the large volume of records responsive to this request and other Access to Information requests in the queue ahead of yours, we are unable to provide you with an exact date of response. Our office is aware that you require the requested information on an expedited basis and will be processing the remainder of your request as soon as we are able.

[para 7] The Applicant then requested a review of the Public Body's response. In order to ensure a timely response to the access request, the Applicant's request for review proceeded directly to inquiry.

II. RECORDS AT ISSUE

[para 8] As the issue in this inquiry relates to the timeliness of the Public Body's response to the Applicant, there are no records at issue.

III. ISSUES

[para 9] The Notice of Inquiry lists the issue for this inquiry:

Did the Public Body comply with section 11 of the Act (time limit for responding)?

IV. DISCUSSION OF ISSUE

[para 10] Section 11 of the Act requires a public body to respond to an access request no later than 30 days after receiving the request. Section 11 of the Act 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 11] In submissions to this inquiry, the Public Body acknowledged it did not comply with section 11 of the Act.

[para 12] The Public Body also stated:

The Public Body missed the deadline for which it could extend the time limit for responding to this request under section 14 of the *FOIP* act, therefore no extension was taken.

In addition, the Public Body has numerous late files and, in order to be fair to all its applicants, it has been processing them in the order in which they were received. The exceptions to this have been files which were required to be prioritized. For example OIPC Orders, Court dates, etc.

Given the above information, the Public Body made the decision not to request an extension from the Office of the Information and Privacy Commissioner (OIPC) in accordance with section 14 of the Act, as it was expected the OIPC would not approve the length of time the Public Body would require to process the request.

Approximately 1500 pages and numerous audio/video files were located in response to this request.

In response to the Notice of Inquiry, the Public Body has made this file a priority and is actively processing this request.

[para 13] The Public Body informs me:

...it is taking steps to address the issue of its inability to respond to access to information requests in accordance with section 11 of the FOIP Act. Its FOIP Unit has made changes to its internal processes to make them more efficient and is currently recruiting three (3) FOIP Advisor positions. Filling these positions will help to alleviate the back log of late files, however, the impact will not be immediate.

[para 14] I find the Public Body has failed to meet its obligations under section 11 of the Act.

V. ORDER

[para 15] I make this Order under section 72 of the Act.

[para 16] 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 duties under the Act.

[para 17] I 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.

Neena Ahluwalia Q.C.
Adjudicator