

ALBERTA

OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER

ORDER F2019-20

June 7, 2019

ALBERTA JUSTICE AND SOLICITOR GENERAL

Case File Number 011345

Office URL: www.oipc.ab.ca

Summary: On February 16, 2016, the Applicant made a request for access under the *Freedom of Information and Protection of Privacy Act* (the FOIP Act) to Alberta Justice and Solicitor General (the Public Body). He requested:

All records that relate to proposals to arm peace officers employed by Commercial Vehicle Enforcement Branch; including any memos, emails, and briefing notes that speak to reasons or justifications to approve, deny, or delay approval / denial of the proposals. I believe the relevant records to be in the possession of or to have been authored by [names of employees] and Kathleen Ganley.

The Public Body did not respond to the Applicant. The Applicant requested review of the Public Body's failure to respond. The Adjudicator directed the Public Body to respond.

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] On February 16, 2016, the Applicant made a request for access under the *Freedom of Information and Protection of Privacy Act* (the FOIP Act) to Alberta Justice and Solicitor General (the Public Body). He requested:

All records that relate to proposals to arm peace officers employed by Commercial Vehicle Enforcement Branch; including any memos, emails, and briefing notes that speak to reasons or

justifications to approve, deny, or delay approval / denial of the proposals. I believe the relevant records to be in the possession of or to have been authored by [names of employees] and Kathleen Ganley.

[para 2] On February 23, 2016, the Public Body wrote the Applicant to confirm receipt of the access request. It stated that it would make every reasonable effort to respond by March 21, 2016. However, it indicated that due to the high volume of access requests at the office, it was possible that it would “exceed the 30 day requirement”.

[para 3] On March 21, 2016, the Public Body extended the time for responding to the access request. The new date for responding was April 19, 2016.

[para 4] On February 12, 2018, July 4, 2018, and again on November 9, 2018, the Applicant sought updates from the Public Body as to the progress it was making in responding to its access request. The Public Body was unable to provide a timeline for its expected response.

[para 5] On December 3, 2018, the Public Body informed the Applicant that he could seek review by the Commissioner.

[para 6] On March 11, 2019 Applicant requested review by the Commissioner of the Public Body’s failure to respond to his access request.

[para 7] The Commissioner decided to move the matter directly to inquiry.

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

[para 8] 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 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 9] In its submissions for the inquiry, the Public Body acknowledged that it had not complied with section 11 of the FOIP Act:

In response to the Notice of Inquiry[,] the Public Body acknowledges that it did not comply with section 11 of the FOIP Act.

The Public Body has made this file a priority and is actively processing it and expects to be able to respond to the Applicant in the near future. As it is late in responding, all fees related to this file will be waived.

The Public Body will accept the decision of the adjudicator and comply with the Order.

[para 10] As the Public Body has not responded to the access request, I must make an order directing the Public Body to respond to the Applicant. The Public Body will have fifty days from the receipt of the order to respond to the Applicant.

III. ORDER

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

[para 12] 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 13] 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 it.

Teresa Cunningham
Adjudicator