ALBERTA

INFORMATION AND PRIVACY COMMISSIONER

REQUEST TO DISREGARD F2019-RTD-01

February 1, 2019

ALBERTA JUSTICE AND SOLICITOR GENERAL

Case File Number 005572

Office of the Information and
Privacy Commissioner of Alberta

FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT
Section 55(1) Decision: Request for Authorization to Disregard an Access Request

Public Body	Alberta Justice and Solicitor General
OIPC File Reference	005572
Public Body File Reference	2017-P-0321 – 2017-P-0340, 2017-P-0373 – 2017-P-0375, 2017-P-0393, 2017-P-0393, 2017-P-0415 – 2017-P-0421
Date of Decision	February 1, 2019
Summary of Decision	The Public Body's application under section 55(1) is dismissed. The Public Body is required to respond to the Applicant's access requests under the FOIP Act.
Public Body's Request	The Public Body seeks authorization to disregard 32 access requests made by the Applicant.
Access Request at Issue	The Applicant initially submitted 20 access to information requests to the Public Body on May 5, 2017. All of the requests contain the same extensive preamble. On May 11, 2017, the Applicant revised his initial requests, and made 3 additional requests. The first 23 requests are as follows: *…all of my personal information found in any record or file of any type that includes but is not limited to: all communications or records in any form… All of the information as listed above, relevant to, retained by, distributed by, in the possession of or in the control of:* *[#1-3] Alberta Justice Crown Prosecutor [3 named staff members of the Public Body]… during the time period of January 1, 2013 inclusive to current date…* *[#4-8] Alberta Justice Crown Prosecutor [5 named staff members of the Public Body]… during the time period of January 1, 2007 inclusive to current date…* *[#9] Alberta Serious Incident Response Team Executive Director [1 named staff member]… during the time period of January 1, 2016 inclusive to current date…* *[#10-11] Alberta Justice and Solicitor General [1 named staff member of the Public Body]… during the time period of*

	January 1, 2016 through to current date… [1 named staff member of the Public Body]… during the time period of January 1, 2010 inclusive to current date… *[#12] Alberta Commercial Vehicle Enforcement… [2 named staff members, and any other individuals involved in an investigation of a complaint laid against the Applicant] during the time period of June 1, 2016 to current date…* *[#13] Alberta Sheriffs Branch… any civilian employee, peace officer, law enforcement officer, supervisor or commander employed by the Alberta Sheriffs Branch during the time period of January 1, 2008 inclusive to current date…* *[#14] The Provincial Court/Court of Queen's Bench Clerks office located at Hinton, Alberta. This includes any clerk or civilian employee employed at this office. This applies to the time period of January 1, 2012 through to current date…* *[#15] The Alberta Justice and Solicitor General Crown Prosecutor's office located in Hinton, Alberta. This applies to the time period of January 1, 2004 through to current date…* *[#16] Alberta Justice and Solicitor General, Provincial Court, Hinton, Alberta, civilian employee/court manager in the court clerks office, [1 named staff member]. This applies to the time period of January 1, 2004 through to current date…* *[#17] Alberta Justice and Solicitor General, Provincial Court, Court of Queen's Bench, Hinton, Alberta, [1 named person], (acting as Justice of the Peace). This applies to the time period of January 1, 2010 through to current date…* *[#18-19] Alberta Justice and Solicitor General, [2 named staff members], Justice of the Peace. This applies to the time period from January 1, 2012 through to current date…* *[#20] Alberta Crown Prosecutor [1 named individual] (Calgary, Alberta) during the time period of January 1, 2007 inclusive to current date…* *[#21] The Alberta Justice and Solicitor General's Ministers [sic] office, the office's [sic] of assistant deputy Ministers to the Minister of Justice, and all senior Alberta Justice and Solicitor General administrators and clerks…* *[#22] All production, call record, tracking, search, arrest warrants or any other type of warrant issued to, or pending*

	issue, to the RCMP or any other law enforcement or police agency in Alberta, through any Alberta Justice and Solicitor General crown prosecutor, relevant in any way to me, [the Applicant]… *[#23] The complete Court File, Hinton Alberta [2 court file numbers] as held by Alberta Justice and Solicitor General.* On May 18, 2017, the Applicant submitted 2 more requests, as follows: *[#24] The Alberta Law Enforcement Review Board has produced all review hearing transcripts relevant to my appeal of the Edmonton Police Service Professional Standards Branch internal investigation [1 file number]… I am formally requesting a copy of those transcripts. They are: [1 style of cause, 2 hearing dates, and 1 decision date].* *[#25] The court transcripts of my parking ticket trial have been produced for the Edmonton Police Service Professional Standards Branch relevant to their investigation of [1 file number]… I am formally requesting a copy of that transcript. It is: [2 court file numbers, 1 date, 1 courtroom location, and 1 named presiding Justice].* On May 30, 2017, the Applicant submitted 7 more requests, as follows: *[#26] All communications / documentation… in any format relevant in any way, to the request of Alberta Justice and Solicitor General and [a named employee] to disregard access requests pursuant to Section 55 of the Alberta FOIPPA Act in the matter of OIPC File #005572 and the requests therein for personal information as made by [the Applicant]… This request includes records of internet searches performed by [a named employee] or any of the associated Alberta Justice and Solicitor General staff including Alberta Justice FOIP office staff relevant to the above referenced files and [the Applicant]… The timeline for this request begins on January 1, 2017 and runs through to current date with a status of "continuing request" as per the request below… [section 9(1) of the FOIP Act] It is requested that this status of "continuing request" be applied to the above information sought, to be released on a biweekly schedule until the information as requested above, and herein, has been released or the matter has been released and or the matter has been otherwise resolved [up to a period of 2 years].*

	[#27] The total number of access-to-information requests the Alberta Justice and Solicitor General's FOIP office has received since October 2016 through to current date… Of those requests, state which of those were subject to Alberta Justice FOIP office requests to disregard the access-to-information requests pursuant to Section 55 of [the FOIP Act]. *[#28-29] All files, documentation, communications and or information, in any form, received or made/sent by [1 named Justice]… and [1 Crown Prosecutor] relevant to the trial of Parking Violation [2 ticket numbers, 1 date, 1 courtroom location, and 1 named presiding Justice]…* *[#30-32] A complete and detailed record of all private persons, persons, companies, police agencies, peace officers, police officers, police departments or representatives or employees of any government or public body, that has obtained a copy of the trial transcript relevant to the trial of Parking Violation [2 ticket numbers, 1 date, 1 courtroom location, and 1 named presiding Justice]… [the] transcript relevant to the Alberta Law Enforcement Review Board trial/hearing of [1 style of cause, 2 trial hearing dates]…Court file, Hinton Alberta [2 Court file numbers]…*
LEGISLATIVE AUTHORITY	
"Public Body"	The Public Body is a "public body" as defined by section 1(p)(i) of the FOIP Act, as it is a "department, branch or office of the Government of Alberta".
Commissioner's Authority	Section 55 of the FOIP Act reads as follows: ***Power to authorize a public body to disregard requests*** *55(1) If the head of a public body asks, the Commissioner may authorize the public body to disregard one or more requests under section 7(1) or 36(1) if* *(a) because of their repetitious or systematic nature, the requests would unreasonably interfere with the operations of the public body or amount to an abuse of the right to make those requests, or* *(b) one or more of the requests are frivolous or vexatious.*

		A decision under section 55(1) is a discretionary "may" decision. A public body making a request under section 55 has the burden to establish that the conditions of either section 55(1)(a) or (b) have been met. If a public body meets its burden, then I will decide whether to exercise discretion to authorize the public body to disregard the access or correction request at issue.
SUBMISSIONS		
Public Body's Submission	**Repetitious or systematic**	The Public Body refers me to OIPC File Reference #F3885, where my office held that 'repetitious' is when a request for the same records or information is submitted more than once, and 'systematic in nature' includes a pattern of conduct that is regular or deliberate. On whether the access requests are 'repetitious', the Public Body takes the position that "*the majority of the requests seek the same information of one (1) or more of the other requests and are therefore repetitious in nature. The Public Body maintains that the severity and complexity of this repetition makes it impossible to reasonably attempt to clarify the requests with the applicant*". As to whether the access requests are 'systematic in nature', the Public Body argues the following: *"The fact that all twenty (20) requests form part of one document and were submitted at one time indicates a deliberate act on the part of the applicant to burden the FOIP unit and the affected program areas with a large amount of requests which would require extensive resources to search and process. As previously noted many of the requests are for lengthy time periods and are for the same information."*
	Unreasonable interference with operations	The Public Body argues that: "*Twenty (20) request [sic] submitted at the same time by the applicant is a disruption to the operations of the FOIP unit. The Public Body advises that it would have to assign at least two (2) advisors and one (1) administrative support staff fulltime just to process these requests, taking them away from all other duties. As these requests would all be due on the same day, in order to be in compliance with the legislation, it would likely be necessary to temporarily re-assign further unit resources to assist with processing."* The Public Body advises that because of the age of the records requested, much of the requested information, if available, would be in offsite storage, and the Public Body's Records Management Unit's assistance would be required, which would take staff away from their duties.

		Ten of the requests relate to the Crown Prosecution Service, six of which are for records from staff at the Hinton office which has only seven staff members. The Public Body argues that this would take Crown Prosecutors and their support staff away from their essential services in prosecuting criminal and civil cases, and therefore unreasonably interfere with operations of that office. The Public Body argues that requests #12 and #13 would require branch wide searches for records from the Commercial Vehicle Enforcement branch and the Sheriff branch, which have a large role in keeping Albertans safe. Requiring these branches to conduct the requested searches would "not only unreasonably interfere with the operations of the Ministry, but could also put the safety of Albertans at risk". Finally, the Public Body submits that: "*… the applicant intentionally submitted these requests in order to disrupt the operations of not only the FOIP unit, but the Public Body as a whole"*.
	Amount to an abuse	No argument made.
	Frivolous or vexatious	The Public Body's entire argument on this point is as follows: *"Given the above noted information and the number and scope of the requests received from the applicant, the Public Body believes that the applicant is not merely seeking access to information, but rather is misusing the FOIP Act to unreasonable [sic] interfere with the operations of the Public Body."*
Applicant's Submission	**Repetitious or systematic**	The Applicant says that prior to these access requests he has never made a single access request under the FOIP Act to any municipal or provincial public body in Alberta. With respect to the overlap between requests that was noted by the Public Body, the Applicant relies on section 10 of the FOIP Act and argues that the Public Body has a duty to assist him, but did not contact him to ask questions or request clarification.
	Unreasonable interference	The Applicant argued that the size of the access request is irrelevant, and referred me to my office's Investigation Report IR-F2017-01, paras 64-66. The Applicant argued that absent a valid exception under the FOIP Act, records must be released; as a consequence, records responsive to complex requests often require significant review.

	Amount to an abuse	No argument made.
	Frivolous or vexatious	The Applicant refers me to three decisions of my office for consideration of "ulterior improper motive": Gowling WLG (Canada) LLP, December 12, 2016; Service Alberta August 27, 2014; and Town of Ponoka, August 11, 2015. The Applicant noted that he is not required to explain his reasons for making an access request in the absence of evidence of an ulterior or improper motive, but he nevertheless provided me with considerable detail about previous incidents that he says may give rise to civil actions for "negligence in police investigation, malicious prosecution and misfeasance of public office" against the Public Body, the RCMP, and the Edmonton Police Service, which he says is the reason for making the access requests. The Applicant also referred me to my office's decision in Service Alberta, August 27, 2014 for the proposition that a request is not "vexatious" simply because a public body is annoyed; a request is "vexatious" when the primary purpose of the request is not to gain access to information but to continually or repeatedly harass a public body in order to obstruct or grind a public body to a standstill.

APPLICATION/ANALYSIS OF S. 55(1) TO ACCESS REQUESTS

The Public Body's original request for authorization to disregard 20 access requests was accompanied by a brief written argument, dated May 11, 2017. Most of the Public Body's argument on this matter has been included above. The Public Body chose to rely on the same arguments for the additional 12 access requests. The Public Body did not submit an affidavit or any other evidence.

On August 8, 2017, the Applicant forwarded a letter to my attention from the Deputy Minister of Alberta Justice and Solicitor General to the Applicant, which responded to a complaint by the Applicant about the conduct of the FOIP Coordinator with whom he was dealing. The Deputy Minister assigned the Executive Director, Human Resource Services Branch to look into the complaint. As a result of the review, gaps in service level expectations were identified.

On November 23, 2017, I received a request from the Applicant to provide his submission *in camera*. I declined the Applicant's request. I have not considered any *in camera* submissions.

The Applicant submitted written argument dated February 1, 2018.

The onus is on the Public Body to prove what it asserts

The proposition that "he who asserts must prove" applies across all areas of law, unless there is a specific reverse onus: for example, see *Garry v Canada*, 2007 ABCA 234, para 8; and *Rudichuk v Genesis Land Development Corp*, 2017 ABQB 285, para 27. The proponent of a motion needs evidence.

As the moving party requesting my authorization, the onus is on the Public Body to prove, with evidence, the requirements of section 55(1)(a) or (b), on a balance of probabilities. As I stated in the *MacEwan University* Decision under section 55(1) Decision (September 7, 2018), "I cannot make arguments for any party before my office. I must make a decision based on the arguments and evidence the parties put before me".

Under section 55(1)(a), I am permitted to authorize the Public Body to disregard one or more of the Applicant's requests if they are repetitious or systematic in nature, and would unreasonably interfere with the operations of the Public Body or amount to an abuse of the right to make those requests. Under section 55(1)(b), I may authorize the Public Body to disregard one or more of the requests if they are frivolous or vexatious.

Because section 55 provides that I "may" give authorization, if the Public Body meets its burden I must then decide whether to exercise my discretion to authorize the Public Body to disregard the requests.

Applying this reasoning to section 55, if a public body meets its burden, I will then go on to consider whether there is any compelling reason not to grant my authorization to disregard a request.

For the reasons set out below, I find that the Public Body has failed to prove the criteria in either section 55(1)(a) or (b). Accordingly, it is unnecessary for me to consider whether there is any compelling reason not to grant my authorization to disregard the requests.

Section 55(1)(a)

The Public Body argues that the requests are repetitious and systematic, and would unreasonably interfere with its operations.

Repetitious or Systematic

In *Request for Authorization to Disregard Access Requests – Grant MacEwan College* (March 13, 2007), the former Commissioner said that "repetitious" is when a request for the same records or information is submitted more than once, and "systematic in nature" includes a pattern of conduct that is regular or deliberate.

Evidence of previous requests is relevant to the determination of whether a current request is repetitious: *Request for Authorization to Disregard an Access Request – Alberta Motor Association*, March 8, 2010.

There is no evidence of any previous requests by the Applicant. The Applicant has made a number of federal access requests, but he says that he has never before made any requests under the FOIP Act.

The Public Body argues that the requests are repetitious because:

- requests #1 through #8 and #15 fall within the scope of #20;
- requests #4 through #8 fall within the scope of #15;
- request #16 falls within the scope of #14;
- part of requests #17, 18 and 19 include records related to the same subject;
- request #20 falls within the scope of request #22; and

- request #23 falls within the scope of request #15 and #22

The Public Body takes the position that "the majority of the requests seek the same information of one (1) or more of the other requests and are therefore repetitious in nature", and that "the severity and complexity of this repetition makes it impossible to reasonably attempt to clarify the requests with the applicant".

I do not agree. As explained below, the fact that some or even most of the requests fall within the scope of other requests does not make them repetitious, nor does any overlap or perceived complexity make it impossible to reasonably attempt to clarify the requests with the Applicant. I note that the Public Body was able to summarize its concerns with the access requests in its submission to me; therefore, it is clearly not impossible to attempt to clarify the requests with the Applicant.

As the Applicant pointed out in his written argument, section 10 of the FOIP Act imposes a duty on the Public Body to assist him. There is no evidence before me that the Public Body made any attempt to clarify the requests with the Applicant. Given that many of the requests fall within the scope of others, a reasonable attempt to clarify the Applicant's request could very well result in the requests being distilled into a few core requests for the body of information the Applicant ultimately seeks to obtain. However, even without clarification from the Applicant, the Public Body has already demonstrated through its argument that the requests can be streamlined.

There is an important distinction to be drawn between overlap and repetition. Where there is overlap between requests that are made at the same time, as is the case here, only one search will be required for all of the overlapping requests. Where more than one request has been made for the same information at more than one time, more than one search will be required for the same information. The latter is repetitious; the former is not. As the Applicant has not made any of these requests before, the Public Body will not be forced to respond to his requests more than once (unless future requests are made, which may be a matter for another day). As a result, I find that the requests are not repetitious.

Under the heading, "*Systematic*", the Public Body argues that because the Applicant submitted 20 requests in one document, at one time, this indicates a "deliberate act" on the part of the Applicant to burden the FOIP unit and the affected program areas of the Public Body.

I disagree. By submitting his requests at one time, the Applicant has enabled the Public Body to conduct contemporaneous searches for all of the requested information. I see nothing improper about the number of requests or the overlap between them. Had the Applicant submitted tranches of the same or similar requests at different points in time, requiring the Public Body to conduct the same or similar searches more than once, then I might find the requests to be repetitious or systematic.

Based on the Applicant's representations in his submissions, I am satisfied that he is interested in receiving the requested information. There is no evidence before me to suggest the Applicant's requests are a "deliberate act" to inundate or disrupt the Public Body. I find that the requests are not systematic in nature.

As a result, the Application under section 55(1)(a) fails at the first stage, because the Public Body has not proven that the requests are either repetitious or systematic in nature. Nevertheless, I have gone on to consider the Public Body's argument under the second stage of section 55(1)(a), that the requests would unreasonably interfere with the operations of the Public Body.

Unreasonably interfere with the operations of the public body

The Public Body argues that because all of the access requests were submitted at the same time, it would pose a "disruption to the operations of the FOIP unit". The Public Body says it would have to assign at least two advisors and one administrative support staff full time just to process these requests, taking them away from all other duties (I have not been told for how long). Further, because all of the requests would be due on the same day, in order to comply with the legislation, further resources may be required to assist with processing.

The Public Body says further that:

- Given the age of some of the records requested, it is reasonable to assume that it would be in offsite storage and the Public Body would need the assistance of its Records Management Unit to facilitate the required searches, taking staff away from their critical duties;
- Many of the requests relate to the Crown Prosecution Service at the Hinton office which has only seven staff, and Crown Prosecutors would be taken away from prosecuting criminal and civil cases; and
- Two of the requests (#12 and #13) would require branch wide searches of the Commercial Vehicle Enforcement and the Sheriff branches, and because these branches have a large role in keeping Albertans safe, requiring them to conduct the requested searches could put the safety of Albertans at risk.

I have previously found requests for branch-wide searches to amount to unreasonable interference: *Request for Authorization to Disregard an Access Request – Alberta Justice and Solicitor General* (February 12, 2018). The practice of requesting branch-wide searches should be discouraged, especially where the applicant is able to name the individuals who may possess the requested information, as is the case here.

With respect to requests #12 and #13, I agree with the Public Body that searches of the Commercial Vehicle Enforcement and the Sheriff branches for records over a period of several years would unreasonably interfere with the operations of the Public Body. Both of these branches employ large numbers of staff across the Province, the vast majority of whom would have nothing to do with the Applicant. As the Public Body notes, these branches play an important role in keeping Albertans safe. Pulling all of the staff members in each of these branches away from their duties to conduct the requested search is an unreasonable request. I therefore find that the scope of these requests amounts to unreasonable interference with the operations of the Public Body.

I also find that requests #21 and #22 amount to unreasonable interference with the operations of the Public Body. The Public Body argues that request #21 would involve a search of all senior management of the Public Body, including the Minister and the Assistant Minister. Request #22 would involve a search of all law enforcement and Crown Prosecutors in Alberta. Having reviewed the Applicant's submissions, I see no reasonable justification for such broad and imprecise requests, particularly when it is evident from the Applicant's submissions that he is reasonably certain of the names of individuals who may possess information about him.

Even though I have found that requests #12, #13, #21, and #22 would unreasonably interfere with the Public Body's operations, I cannot authorize the Public Body to disregard them, because they are neither repetitious nor systematic in nature (as discussed above), and the requirements of section 55(1)(a) are

not met.

However, it is evident from the Applicant's requests and submissions that he is primarily interested in records in relation to specific individuals. I would encourage the Public Body to assist the Applicant to narrow the scope of his requests. Furthermore, as I discuss below, the Public Body may extend the time for a response to these requests under section 14 of the FOIP Act.

With respect to the remainder of the requests, there is insufficient evidence and argument before me to rise to the level of "unreasonable interference" that is required by section 55(1)(a).

There is good reason why the Public Body must meet a high threshold of showing "unreasonable interference", as opposed to mere disruption. Access and privacy rights have been identified as "quasi-constitutional" by the Supreme Court of Canada: *Douez v Facebook Inc.*, 2017 SCC 33, paras 4 and 50; *Alberta (Information and Privacy Commissioner v United Food and Commercial Workers*, 2013 SCC 62, para 19. Citizens must have access to information in order to participate meaningfully in the democratic process, and to hold the state accountable: *Dagg v Canada (Minister of Finance)*, [1997] 2 SCR 403, para 61. Accordingly, as I have said before, the power that has been granted to me under the FOIP Act to authorize a public body to disregard an access request is not one I take lightly: *Request for Authorization to Disregard an Access Request – Calgary Police Service* (November 29, 2017), para 4.

It will usually be the case that a request for information will pose some disruption or inconvenience to a public body; that is not cause to keep information from a citizen exercising his or her democratic and quasi-constitutional rights.

The Public Body raises a concern that further resources may be required to respond to the requests because they would all be due on the same day. Section 14of the FOIP Act outlines various circumstances where a public body may extend the time limit for responding to a request. For example, section 14(1)(b) allows the head of a public body to extend the time for responding to a request for up to 30 days or, with my permission, for a longer period if a "large number of records are requested or must be searched and responding within the period set out in section 11 would unreasonably interfere with the operations" of the Public Body. Section 14(2) of the FOIP Act allow the head of a public body, with my permission, to extend the time for responding if multiple concurrent requests have been made by the same applicant. If the Public Body requires an extension for any of the requests, it may request one from my office.

The Public Body has not argued that the Applicant's requests amount to an abuse of the right to make the requests, so I have not considered this ground.

The Public Body has failed to prove that any of the requests are repetitious or systematic in nature. Furthermore, with the exception of requests #12, #13, #21, and #22, the Public Body has failed to prove that the requests would unreasonably interfere with its operations.

Section 55(1)(b)

Under section 55(1)(b), I may also authorize a public body to disregard a request if it is "frivolous or vexatious". The Public Body alleges that the requests are vexatious.

Vexatious

The Public Body's entire argument on this point is contained in one sentence, as follows:

"Given the above noted information and the number and scope of the requests received from the applicant, the Public Body believes that the applicant is not merely seeking access to information, but rather is misusing the *FOIP Act* to unreasonable [sic] interfere with the operations of the Public Body".

A vexatious proceeding means "…that the litigant's mental state goes beyond simple animus against the other side, and rises to a situation where the litigant actually is attempting to abuse or misuse the legal process": *Jamieson v Denman*, 2004 ABQB 593, para 127. In *Chutskoff v Bonora*, 2014 ABQB 389 ("*Chutskoff*"), aff'd by 2014 ABCA 444, Michalyshyn J identified a "catalogue" of features of vexatious litigation:

1) collateral attack;
2) hopeless proceedings;
3) escalating proceedings;
4) bringing proceedings for improper purposes;
5) initiating "busybody" lawsuits to enforce alleged rights of third parties;
6) failure to honour court-ordered obligations;
7) persistently taking unsuccessful appeals from judicial decisions;
8) persistently engaging in inappropriate courtroom behavior;
9) unsubstantiated allegations of conspiracy, fraud, and misconduct;
10) scandalous or inflammatory language in pleadings or before the court; and
11) advancing "Organized Pseudolegal Commercial Argument".

Any of these indicia are a basis to classify a legal action as vexatious: *Chutskoff*, para 93.

The Public Body says that the Applicant is using the FOIP Act for an improper purpose to interfere with its operations, but all I have been provided by the Public Body is the bare assertion that the number and scope of the requests must mean the Applicant is misusing the FOIP Act. There is no evidence, or even any argument, that the Applicant is improperly motivated in making the requests.

As the Applicant correctly pointed out in his written submissions, absent evidence of an ulterior or improper motive, an access requester is not required to detail his or her reasons for making a request. There is no burden on a person to show that the request was for a legitimate purpose: Service Alberta (OIPC File Reference F8116), August 27, 2014, para 19. Notwithstanding the fact that the Public Body has failed to provide evidence or argument of an improper motive, the Applicant has detailed his reasons for making the requests. The Applicant has provided descriptions of incidents that he says may give rise to civil actions by him for negligent investigation, malicious prosecution, and misfeasance in public office. As demonstrated by the case of *Blank v Canada*, 2006 SCC 39, it is not improper to request information from the state for the purpose of seeking civil redress arising from the manner in which the state conducted proceedings against the applicant.

In the absence of an improper motive, and with the benefit of the Applicant's reasons, I am satisfied that the Applicant is not making the requests for an improper purpose. The Public Body has failed to prove that the requests are vexatious, and therefore do not meet section 55(1)(b).

DECISION
As the Public Body has failed to prove, on a balance of probabilities, either section 55(1)(a) or 55(1)(b), I dismiss the Public Body's request for authorization to disregard the access requests.

Jill Clayton
Information and Privacy Commissioner