



Information and Privacy
Commissioner/Ontario
Commissaire à l'information
et à la protection de la vie privée/Ontario

ORDER MO-1748

Appeal MA-040001-1

Toronto Police Services Board



80 Bloor Street West,
Suite 1700,
Toronto, Ontario
M5S 2V1

80, rue Bloor ouest
Bureau 1700
Toronto (Ontario)
M5S 2V1

416-326-3333
1-800-387-0073
Fax/Téloc: 416-325-9195
TTY: 416-325-7539
<http://www.ipc.on.ca>

NATURE OF THE APPEAL:

This is an appeal under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*).

On October 7, 2003, Toronto Police Service (the Police) received a request for access to the requester's personal information under the provisions of the *Act*.

On October 9, 2003, the Police wrote to the requester confirming that the request had been received and assigned a file number.

Section 19 of the *Act* requires the Police to issue a decision within 30 days of receipt of a request. If a decision is not issued within that time period, the Police is in a "deemed refusal" situation pursuant to subsection 22(4) of the *Act*. That provision states:

A head who fails to give the notice required under section 19 or subsection 21(7) concerning a record shall be deemed to have given notice of refusal to give access to the record on the last day of the period during which notice should have been given.

On January 2, 2004, the requester (now the appellant) wrote to this office indicating that the Police had not replied to his request under the *Act*.

On January 6, 2004, this office sent a Notice of Inquiry to both the appellant and the Police stating that the Police were in a deemed refusal situation. The Notice also advised that if a decision was not issued by January 20, 2004, I would be in a position to issue an order requiring the Police to provide a decision letter to the appellant.

I contacted the Police regarding the status of a decision letter. The Police advised that on January 12, 2004 a time extension notice had been issued to the appellant. Barring exceptional circumstances, which are not present here, when assessing the time and resources it will need to properly respond to a request, an institution must decide and provide written notice within the initial 30-day time limit for responding to the request, the length of any time extension it will need pursuant to section 20 of the *Act* (Orders P-234, M-439 and M-581). In this case, notice of the time extension for responding to the request was not issued until more than three months after the request was received, which is clearly not in accordance with the direction provided by these previous orders. To ensure that there are no further delays in processing this request, I am ordering the Police to issue a decision regarding access.

ORDER:

1. I order the Police to issue a decision letter to the appellant regarding access to the records in accordance with the *Act* and without recourse to a time extension, no later than February 9, 2004.

2. In order to verify compliance with Provision 1 of this Order, I order the Police to provide me with a copy of the decision letter referred to in Provision 1 by February 9, 2004. This should be forwarded to my attention, c/o Information and Privacy Commissioner/Ontario, 80 Bloor Street West, Suite 1700, Toronto, Ontario, M5S 2V1.

Original Signed by: _____

Lucy Costa
Intake Analyst

February 2, 2004 _____