



**Information and Privacy
Commissioner/Ontario**

**Commissaire à l'information
et à la protection de la vie privée/Ontario**

ORDER MO-1883

Appeal MA-040316-1

Toronto Police Services Board



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NATURE OF THE APPEAL:

In a letter dated August 11, 2004, the appellant made a request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for access to records from the Toronto Police Service (the Police.) The request was for records related to a police investigation into the death of the appellant's son. The request consisted of 58 questions and/or points relating to the incident.

On October 4, 2004, the Police wrote to the appellant acknowledging that the request was received on September 29, 2004.

On October 5, 2004, the Police wrote to the appellant to advise that it was extending the response time, in accordance with section 20 of the *Act*, by an additional 90 days to January 27, 2005.

The Police stated that its reasons for the time extension were as follows:

1. to review the volume of records requested necessitates numerous hours of search time; meeting the time limit would unreasonably interfere with the operations of the Police; and
2. consultations with persons and institutions outside of the Toronto Police Service are necessary to comply with your request and the consultations cannot reasonably be completed within the 30-day time limit.

The requester (now the appellant) appealed the Police's decision for a time extension.

On November 5, 2004, I sent a Notice of Inquiry to the appellant and the Police setting out the issues in the appeal. I spoke to both the appellant and the Police on the phone and both submitted written representations.

DISCUSSION:

The sole issue for me to determine in this appeal is whether the extension of time, claimed by the Police as necessary to respond to the appellant's request, was made in accordance with section 20(1) of the *Act*.

Section 20(1) of the *Act* states:

A head may extend the time limit set out in section 19 for a period of time that is reasonable in the circumstances, if,

- (a) the request is for a large number of records or necessitates a search through a large number of records and meeting the time limit would unreasonably interfere with the operations of the institution; or

- (b) consultations with a person outside the institution are necessary to comply with the request and cannot reasonably be completed within the time limit.

The appellant clearly expressed his concern that the Police have repeatedly delayed his request for records. He stated that the records he is requesting are three years old and this is sufficient time for the Police to compile the records.

The appellant's written submissions stated as follows:

The records I have requested are not extensive. The Police investigation lasted less than 24 Hours. There were 6 (perhaps 7) police officers who played a major role in the investigation. Interview conducted by the police involved 3 or possible 4 individuals.

These records should be readily available and accessible through the police filing system.

In its written submission, the Police made several points to support its assertion that a time extension is required.

First, the Police contended that there are a large number of records to review. The Police pointed out that the requester's letter listed 58 points. Within these points are specific questions for which the records are not easily identifiable. The Police noted that the request did not provide an easily identifiable list of records — there was no master list.

The Police submitted that the time frame covering these events is not restricted to one specific date and time and cover a range of events that occurred at different times.

The Police submitted that because the request is in the form of statements and questions, it may be more difficult to identify all the responsive records. The Police use as an example that after reviewing the notebook of a specific police officer, it may lead to the identification of additional records that were not identified upon the first review.

The Police pointed out that records belonging to other government institutions are contained within the responsive records. Consultations are required with those institutions in order to determine whether consent can be obtained to allow for the release of the records.

Finally, in its written submission the Police noted that its FOI unit has experienced an increase in requests which together with staffing issues directly relate to its ability to process requests in a timely manner.

I have carefully considered the submissions of the appellant and the Police. In addition, I also reviewed the appellant's initial request in detail. In particular, I note that the request listed 58 separate points. The 58 points do not identify specific records and appear to pose questions rather than request specific records.

The appellant's position is that the records he has requested are "not extensive". The Police assert the wording of the appellant's request makes it more difficult to first identify and then search for the requested records.

Based on the position of the Police that it will take several steps to identify and then locate the records, and the fact that the requested records go back to 2001, I agree with the assessment by the Police that the request necessitates a search through a large number of records. I am also satisfied that meeting the time limit set out in section 19 of the *Act* would have unreasonably interfered with the operations of the Police.

In my view, staffing issues alone is not a determining factor for requesting a time extension, but I accept the Police's explanation that staffing shortages in the circumstances of this request have affected its ability to process the request.

Considering all of the factors mentioned above, I conclude that the time extension to January 27, 2005 taken by the Police under section 20(1)(a) of the *Act* is reasonable in these circumstances. It is therefore not necessary for me to consider whether the Police has extended the time in accordance with section 20(1)(b) of the *Act*.

The Police are required to complete the search for responsive records and issue a final access decision by January 27, 2005.

ORDER:

1. I uphold the Police's decision to extend the time limit set out in section 19 of the *Act* to **January 27, 2005**.

Original signed by: _____
Brian Bisson
Acting Adjudicator

December 16, 2004 _____