

**ALBERTA
INFORMATION AND PRIVACY COMMISSIONER**

REQUEST TO DISREGARD F2021-RTD-05

October 21, 2021

CALGARY POLICE SERVICE

Case File Number 013361

- [1] Calgary Police Service (“CPS” or the “Public Body”) requested authorization under section 55(1) of the *Freedom of Information and Protection of Privacy Act* (“FOIP” or the “Act”) to disregard access request 19-P-2812 made by an individual whom I will refer to as the Applicant. In its February 16, 2021 submission, the Public Body also requested authorization to disregard any future access requests made by the Applicant.
- [2] For the reasons outlined in this decision, I have decided to grant the Public Body authorization to disregard access request 19-P-2812. The Public Body’s request to disregard future access requests is not granted at this time, but if the Applicant makes a future access request that the Public Body believes meets the criteria of section 55(1), it may make that request again with its application.

Commissioner’s Authority

- [3] Section 55(1) of the FOIP Act gives me the power to authorize a public body to disregard certain requests. Section 55(1) states:
- 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.

Background

- [4] The Public Body provided the contents of the 17 access requests made by the Applicant since 2015. The access request at issue, 19-P-2812 is summarized below (with identifying details removed):

- 1.) Whoever has searched my name from April 1st 2019 to August 31st 2019 (please inset [sic] first/last name, 4/5 digit number, and where they work)
- 2.) Any new entries on the system from April 1st 2019 to August 31st 2019
- 3.) What the following people have under my name (email, notes, etc)
 - January 1st 2018 to August 31, 2019
[9 names of CPS employees redacted]
 - January 2018 to August 31 2019
[4 names of CPS employees redacted]
 - May 1st 2013 to February 1st 2018
[name of CPS employee redacted]
 - April 1st 2019 to August 31st 2019
[number of CPS employee redacted] (not going to mention this filthy thing's name)
- 4.) Following files numbers are from Professional Standards, can I have the full reports of them please?
[file numbers redacted]

Last but not least, could you please assign this to [name redacted]. I don't want anyone else going through my stuff other than him.

- [5] The Public Body reports that the Applicant has made seventeen access to information requests since 2015. It provided responses to those access requests and some of those responses are under review by my office either at the request for review or inquiry stage. The Public Body states, in part:

The Applicant is engaging in [sic] a systemic abuse of the right to access information. His requests are repetitive in nature. The Applicant's main contact with police now is by way of his repeated access requests. The Applicant applied for a position with the CPS several years ago and he was not hired. Since that time, he has been repeatedly making access to information requests claiming he wants to know why he was not hired. The Applicant contacts the Calgary Police which causes new records to be created and then he makes access requests for updates when the only updates are those caused by his repeated contacts with the police. Such activity amounts to an abuse of process and it is submitted that the requests are frivolous and vexatious. The repetitious requests amount to harassment of the Public Body and serves no proper purpose.

To the extent the Applicant is unhappy with the responses to prior access requests, his remedy is to seek a review or an inquiry with the OIPC. He has done that on occasion and has 2 outstanding reviews with the OIPC now [file numbers redacted].

[...]

The Applicant is disgruntled because he was not hired by CPS when he applied. The Public Body has been very patient in terms of responding to the multiple requests for

access to information, but it is clear that access is not the Applicant's motive. The repeated and systemic nature of the requests is indicative of a campaign of harassment mounted by the Applicant.

[...]

There are no legitimate right of access being pursued by the Applicant any longer. Just as the applicants in the AMA case were not permitted to use Access Legislation to harass the AMA, the Applicant in this case needs to be prevented from his continuing course of abusive and vexatious conduct.

- [6] The Public Body also referred to a number of prior decisions authorizing public bodies or organizations to disregard access requests, and explained how similar circumstances apply in this case.
- [7] The Applicant disputes the Public Body's characterization of his access request. In his response, he explained that he has applied for numerous jobs, including with the Public Body, and that "they were all denied without a proper explanation". It is clear that he believes the Public Body is responsible for these job rejections and numerous other problems he has experienced. He states, in part:

I do really well on interviews and have nothing sketchy on my background as far as criminal activity and association goes. I have always kept my nose clean and chosen my friends carefully as I knew I wanted to be a cop since Grade 10 however when it gets to background checks it gets denied. With the police agencies I mentioned it doesn't even get to interviews it gets declined right from screening as they do a check on your [sic] before even proceeding with your file. These monsters have gone to all these agencies and who knows what they told them and that is the only reason why I have sent all these requests in the past 5 years. Every time I make a request I see something new that catches my eye so I make another one next time. My last one was made almost 9 months ago so them saying "he makes requests all the time" is just a bogus excuse to make me look bad. Sure I totally agree that some of them in the past were redundant but that was not my intention by any means to waste anyone's time. I was not aware of how many requests a person can make and if that was the case with them they could have simply contacted me saying "hey you're being a little excessive with your requests can you please tone it down" or something like that. I believe they're pulling it this time because of what I requested. You see, I finally found out who was behind all this all these years and I finally was about to get my hands on whatever he had wrote under my name which prevented me all these years from getting jobs and being in the place I am right now. They admitted it, they said they're looking to deny my request because of the nature of the request this time and they threatened me saying this is what they will be doing moving forward anytime (even 10 years from now I suppose) I make a request to access. If they supposedly got tired of requests why is it that they decided it this time and not the other 16 times? They're doing it now because of what I requested knowing it will finally expose the person who's behind all this.

I firmly believe there's been breach of privacy. Why is it acceptable for them to search my name over 400 times when I have no criminal record, have no association with gang members and have never even been arrested or detained or anything? Why is it acceptable to send lies about me to other agencies across Canada (this was admitted to me back in 2017) through the Real Time Operations Centre (RTOC) without telling me what it was or who it was sent to. Funny enough, when I started doing audits the number of searches dropped drastically because they realized I'm getting close to find out their weasel tendencies. Searching someone over 400 times is what obsession mental illness and harassment looks like. What have I done that is so bad? What have I said that is so serious and bad that I'm being treated like a criminal? Hence why I request every time to have an audit of my name search on their system to ensure there was no bad faith behind it. I really need your help on this. I even messaged them asking to reduce the Access Request by 2/3 and only was interested in numbers 1, 2, 5 on 19-P-2812 and I am still willing to do that as a way to mediate and resolve this. They told me I need to address this with you as to willingness to narrow down this last request in which I hope you could please help me with. I have a family to support and with all this going on I don't see any light at the end of the tunnel. They have illegally stopped me on the road 3 times for no reason and issued me tickets which got thrown out of court but it cost me money to hire a lawyer and take days off work and spend all that time in court. I am being targeted and harassed that's why I'm trying to find disclosure to all this. I really have/had no intention of wasting time. Some of the requests might be repetitive in nature and I apologize for that. If this was their issue they could have mentioned it and moving forward I would have been more careful as to not sending the same stuff. They're saying that I have 2 files for review which is true and if you look at my comments on the file you will see that it's all from that guy who has wrote stuff on the system so that's why I am so eager and fighting to find out what they are. After I get my hands on this document from the last request I probably will be done for a long time. I do not want to waste anyone's time I just want to find out some answers. A friend of mine whose [sic] a cop has told me that some stuff is on my file and she/he will not go on record. I know what they are, these monsters know what they are, but I need them in writing. These scum bags have sabotaged me, are torturing me indirectly, and contributing big to my mental stress by their actions. You can take a man's hands and legs but if you take his ability of working then you will kill that person for the rest of his life. I can't get a proper job in the city, province, and possibly across Canada because of these monster criminals. I need your help on this matter as it's really been bothering me for coming up 7 years now. [...]

- [8] Following the initial exchange of submissions in this matter, the Public Body requested, and was granted, permission to make a further submission. The Public Body's February 16, 2021 submission states, in part:

On January 20, 2021 the Applicant sent an email to the Information and Privacy Commissioner, copied to the Public Body employees [names redacted]. The email referred to the within Application to Disregard and referred to [names redacted] as animals, feces, dogs, dog order takers and Nazis. In addition, he refers to the Public Body as a criminal enterprise and a criminal fraud enterprise. The tone of the

Applicant's correspondence has grown increasingly personal and antagonistic towards employees of the Public Body.

On February 4, 2021, the Applicant sent another email containing a personal attack on [name redacted]. Copies of the relevant emails from the Applicant are attached.

The Public Body owes a duty to its employees to provide a safe workplace, free from harassment and abuse. Section 3(1)(c) of the *Occupational Health and Safety Act*, RSA 2000 c. 2.1 mandates that an employer must ensure that none of the employer's workers are subjected to or participate in harassment or violence in the workplace. Harassment is defined as "... any single incident or repeated incidents or objectionable or unwelcome conduct, comment, bullying or action by a person that the person knows or ought to reasonably know will or would cause offence of [sic] humiliation to a worker, or adversely affects the worker's health and safety. ..."The Applicant's attack on employees of the Public Body clearly fits the definition of harassment. It also fits the definition of vexatious.

The Public Body cannot fulfil its duty to provide a workplace free from harassment where the OIPC provide [sic] a conduit for an individual to personally attack, insult and name call people who are doing their jobs. Applicants should not be permitted to utilize OIPC processes to facilitate personal attacks on members of the Public Body. The Applicant in this case has perverted the OIPC's processes for the purpose of harassing and personally attacking employees of the Public Body. It is submitted that the appropriate remedy when this occurs is for the OIPC to permit the Public Body to disregard the Applicant's request for access to information as well as any future requests for access to information made by the Applicant.

- [9] I have reviewed the Applicant's emails to my office and the Public Body. The Public Body's description of the emails is accurate. The emails contain incredibly derogatory and offensive comments about the Public Body and its employees. In those emails, and in his response to the Public Body's submission, the Applicant is clear that his offensive language is not meant for my office, but only for the Public Body. The Applicant provides additional background information on his circumstances and asks that the Public Body be required to respond to his access request.

Analysis

Section 55(1)(a) – requests are repetitious or systematic in nature

- [10] "Repetitious" is when a request for the same records or information is made more than once. "Systematic in nature" includes a pattern of conduct that is regular or deliberate.
- [11] The Applicant confirms that at least some portions of his request are repetitive. Based on my review of this access request and his 16 previous access requests made since 2015, it is clear that the access requests, including 19-P-2812, are systematic in nature.

Section 55(1)(a) – the requests would unreasonably interfere with the operations of the public body or amount to an abuse of the right to make those requests

- [12] In addition to establishing that a request is either repetitious or systematic, under section 55(1)(a), a public body must also provide evidence that the requests would unreasonably interfere with the operations of the public body or that they amount to an abuse of the right to make those requests.
- [13] As I have noted in numerous prior decisions under section 55(1), the fact that a request is repetitive can be abusive in and of itself. Accordingly, on the facts before me, based solely on the repetitiousness of the access request, I would authorize the Public Body to disregard those portions of the request to which it has already previously responded.
- [14] Using the FOIP Act for purposes other than access to information may be considered an abuse of the right to make those requests. The Applicant submits that he is particularly seeking a specific record or piece of information, but it is not clear from his submission what that is. Having reviewed the content of the Applicant's communications with the Public Body, I am persuaded by the Public Body's argument that the Applicant is abusing his access rights as a means "to personally attack, insult and name call people who are doing their jobs". This is evident from the Applicant's language towards the Public Body and its employees in his submissions.
- [15] Although the Applicant may have a legitimate reason for seeking information, it is abundantly clear that the Applicant is using his access requests as a means to denigrate and insult the Public Body and certain employees. This is an abuse of his right to make those requests.
- [16] I find the Public Body has met its burden to establish that the conditions under section 55(1)(a) of the FOIP Act are met. Access request 19-P-2812 is repetitious and is an abuse of the Applicant's right to make access requests.

Section 55(1)(b) – frivolous or vexatious

- [17] The Public Body submits that the Applicant's request is vexatious. A vexatious request is one in which the Applicant's true motive is other than to gain access to information, which can include the motive or harassing the public body to whom the request is made.
- [18] In a prior decision, (Request for Authorization to Disregard, Alberta Energy Regulator, OIPC File # 005876, issued July 27, 2018), I found as follows:

In Order F2015-16, a public body refused to process an access request unless the applicant resubmitted it without language it considered insulting and offensive to government employees. The applicant refused to do so. I found that the offensive parts of the applicant's request were an abuse of the FOIP office's process and directed the

public body to disregard these parts of the communication, but to process the parts that were a genuine request for information. I imposed a further condition that any additional communications from the Applicant to the Public Body containing similar material could be disregarded in their entirety.

That analysis is applicable to the matter before me. I stated in Order F2015-16:

[para 39] I accept that a respectful workplace is an extremely important principle. Requiring government workers to be subjected to and to respond to offensive, intimidating, threatening, insulting conduct or comments is not only unwarranted, but I agree with the Public Body's argument [...] that it could potentially "cause harm" by having a detrimental effect on their well-being.

[...]

[para 51] There are many court and tribunal cases, particularly in the realm of human rights, in which the use of derogatory or vulgar language, or the making of unfounded accusations against government employees, has been held to constitute an abuse of process. (See, for example, *Bakhtiyari v. British Columbia Institute of Technology* [2007] BCHRT 320.) In such cases the persons using such language have been denied the exercise of what would otherwise be their rights, or have been denied remedies. In some of these cases, the decision-maker has required undertakings that the person conduct themselves appropriately, or has awarded costs against them. (See, for example, *Nourhaghighi v. Toronto Catholic School Board* [2009] HRTO 1519; *Heilman v. First Canada (No. 3)* [2011] BCHRT 260.)

[para 52] My conclusion in the present case is that despite the Applicant's explanations that the information he provided was necessary to help the FOIP Coordinator and others to understand his fear and anger, and to understand the seriousness of his request, the degree of offensiveness of some of the language was not necessary for this purpose.

[para 53] I find, therefore, that the motive for the inclusion of this particular language was other than to obtain information or to provide necessary background for obtaining it. The parts of the Applicant's request in which he makes belittling or severely insulting statements about individuals, appear to be motivated not by a desire to obtain information but by a desire to intimidate and deliberately offend. His ideas that he was not treated fairly or appropriately by government employees, even if this was important to inform what he was asking for, could have been stated without severe insult. Further the Applicant's refusal to remove the language when requested suggests that his motive is, in part, to assert some dominance or control over the process and other participants, and to resist others' exercise of authority, rather than simply to obtain information.

[19] In that decision, I found that scandalous or inflammatory language indicated that a request was vexatious under section 55(1). That finding is applicable here. Among other derogatory language in his communications, the Applicant has referred to employees of the Public Body as animals, feces, dogs, dog order takers, and Nazis. He has referred to the Public Body as a criminal enterprise and a criminal fraud enterprise. This language is

wholly unacceptable in communications relating to an access request or a matter before my office. The Applicant's access request is vexatious.

[20] I find the Public Body has met its burden to establish that the conditions of section 55(1)(b) of the FOIP Act are met.

Request for Authorization to Disregard Future Access Requests

[21] In its February 16, 2021 submission, the Public Body also requested authorization to disregard any future access requests made by the Applicant, although it did not provide further submissions on this point. I will not grant the Public Body's request at this time. As I noted above, the Applicant indicated there was a specific record or piece of information he was seeking, although his submissions were unclear on what that was. The Applicant still has the right to make an access request to the Public Body.

[22] However, the Applicant's history of access requests is concerning, and his communications with the Public Body with respect to this matter are unacceptable. Should the Applicant make an access request to the Public Body in the future, if the Public Body believes the criteria of section 55(1) are met, it may bring an application to disregard that request. The Public Body may also ask to disregard future access requests, with submissions on that point, and I will consider the matter then.

Decision

[23] On the basis of the evidence before me, I have decided to exercise my discretion under section 55(1) of the FOIP Act. The Public Body is authorized to disregard the Applicant's access request 19-P-2812.

Jill Clayton
Information and Privacy Commissioner

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