



OFFICE OF THE  
INFORMATION & PRIVACY  
COMMISSIONER  
— for —  
British Columbia

Order 00-30

**INQUIRY REGARDING THE VANCOUVER POLICE  
DEPARTMENT'S SEARCH FOR RECORDS**

David Loukidelis, Information and Privacy Commissioner  
August 2, 2000

Quicklaw Cite: [2000] B.C.I.P.C.D. No. 33  
Order URL: <http://www.oipcbc.org/orders/Order00-30.html>  
Office URL: <http://www.oipcbc.org>  
ISSN 1198-6182

**Summary:** Public body complied with its duty to applicant under s. 6(1) in its search for a specific individual's "job description". Public body found, but did not provide applicant with, a "classification questionnaire", a record with a different name that set out the functions and duties of the person's position as it was in 1995.

**Key Words:** duty to assist – every reasonable effort – respond openly, accurately and completely.

**Statutes Considered:** *Freedom of Information and Protection of Privacy Act*, ss. 2(1), 6(1).

**Authorities Considered: B.C.:** Order 00-15; Order 00-26.

## 1.0 INTRODUCTION

On January 3, 2000, the applicant sent a request under the *Freedom of Information and Protection of Privacy Act* ("Act") to the Vancouver Police Board requesting a copy of the "job description" of a named individual. The Board transferred the applicant's request to the Vancouver Police Department ("VPD"), since that individual is the VPD's Information and Privacy Co-ordinator.

On February 4, 2000, the VPD responded with a letter referring the applicant to "the attached response to our search for your requested information regarding our FOI coordinator's job description". The attachments were three items of internal correspondence: a note from the information and privacy unit to the VPD's human

resources department asking for a search for the Information and Privacy Co-ordinator's job description and two other items of internal correspondence indicating that the VPD's human resources section could not locate a job description for the Information and Privacy Co-ordinator.

On February 8, 2000, the applicant requested a review of this decision under s. 52 of the Act. During mediation, the VPD conducted a further search for the requested record. However, as mediation was not successful in resolving the request for review, I held a written inquiry under s. 56 of the Act.

## **2.0 ISSUE**

The issue in this inquiry is whether the public body complied with its obligation under s. 6(1) of the Act to make every reasonable effort to assist the applicant and to respond without delay openly, accurately and completely in carrying out its search for the requested record. Although the Act is silent on the point, previous orders have placed the burden of proof on the public body to establish that it complied with its s. 6(1) duties.

## **3.0 DISCUSSION**

**3.1 Applicant's Procedural Objection** – The applicant raised an issue about the timing of the exchange of submissions with our Office. Because he had not received his copy of the VPD's initial submission until four days before reply submissions were due (rather than the usual seven), the applicant said he would not be making a reply submission. The Executive Director of this Office authorized a four-day extension of the due date for the reply submissions to give the applicant more time to submit his reply. The applicant had ample time to submit his reply and in fact filed one on the new due date.

**3.2 Applicable Standards** – Section 6(1) of the Act requires the head of a public body to “make every reasonable effort to assist applicants and to respond without delay to each applicant openly, accurately and completely”. I have described in some detail in Order 00-15 and Order 00-26, for example, the standards expected of public bodies under s. 6(1) in their efforts to search for requested records and in describing those efforts in an inquiry such as this. I will not repeat myself here about the applicable standards.

**3.3 Did the VPD Fulfil Its Section 6(1) Duty?** – The applicant believes the VPD failed in its duty to assist him by conducting an adequate search for the record he requested. The applicant – who is familiar with the VPD – argues that the analyst responsible for processing his request did not explore every option for finding the Information and Privacy Co-ordinator's job description and suggests a number of specific avenues the VPD could have followed in its search.

***The VPD's Search for the Job Description***

The VPD argued that it made every reasonable effort to locate the record requested by the applicant. It submitted affidavit evidence from Constable Randall Smith, an analyst in the VPD's information and privacy unit, in which he described the efforts he took to look for the record. Cst. Smith deposed that he had contacted the human resources section of the VPD, asking that it search for the record. He also deposed that he received a response from the human resources section saying that it could not find a job description for the co-ordinator.

The VPD's submissions did not explain whether the VPD could not find a job description for the Information and Privacy Co-ordinator because none had ever existed or because one had existed but staff could not find it. Its submissions also did not indicate whether Cst. Smith had spoken with appropriate human resources staff, current and previous Information and Privacy Co-ordinators or other appropriate VPD staff to ascertain if there ever had been a job description and, if there had, why a copy could not be found. I therefore requested clarification of these points from the VPD.

The VPD responded that it appeared from its search efforts that no "job description" had ever existed for the position of Information and Privacy Co-ordinator. The VPD said a document called a "Classification Questionnaire" – which sets out the duties of the position as it existed on August 10, 1995 – existed. The VPD concluded by saying the following in its response to my request for clarification:

As this document is not a job description, it was not provided to the applicant. The simple answer to the applicant's question is that there are no documents responsive to his request.

It said it had conveyed this information in a letter of April 13, 2000 to the portfolio officer in this Office responsible for the review.

Regarding my request for clarification of its search efforts, the VPD told me it had checked with human resources staff and the current Information and Privacy Co-ordinator and said that a member of the information and privacy unit who had been with the unit since April 1994 had "searched through all the old files from the previous Coordinator".

***Did the VPD Make A Reasonable Effort to Search for the Requested Record?***

Based on its submissions, I am satisfied that the VPD searched in all the likely places the Information and Privacy Co-ordinator's "job description" might be found, if such a record existed. I therefore find that the VPD complied with its duty under s. 6(1) in its efforts to search for a record with the precise name the applicant requested.

The "Classification Questionnaire", if not called a job description, was evidently the closest thing the VPD had to such a record. It is not clear from the VPD's submissions if

the information and privacy unit knew of its existence during its initial processing of the applicant's request or became aware of its existence only later, during mediation.

There is no evidence before me that the VPD offered the classification questionnaire to the applicant as the closest thing to the record he had requested. The applicant's initial submission suggests he was not told of its existence. I am troubled that the VPD found a record which, it is reasonable to conclude, corresponded quite closely to the requested record and yet did not provide, or at least offer, it to the applicant as being responsive to the clear thrust of the applicant's request. While the applicant may well not have wanted a description of the duties of the co-ordinator's position as it existed in August 1995, it would have been reasonable, in my view, for the VPD to provide the applicant with the questionnaire on the basis that it was the record most responsive to his request.

Where a public body receives a request that, such as the one here, refers to a record by name, it should treat as responsive to that request any records that by their plain content or function – and regardless of their names or titles – can readily be considered to be responsive to the request. This approach – which does not require a public body to minutely scrutinize records, to guess what an applicant is after or to try to divine the intent of an unintelligible request – is consistent with the s. 6(1) duty to make every reasonable effort to assist applicants, a duty that serves the Act's accountability and openness objectives under s. 2(1). Overly literal, or narrow, interpretations of requests are not acceptable. They can, in any case, lead to otherwise unnecessary, and costlier, search and request processing efforts by public bodies. Such interpretations also can lead, ultimately, to unnecessary mediation and inquiry processes under the Act.

As I have said before, public bodies should, in this light, contact applicants to clarify requests wherever possible, since this will usually serve both their interests and those of applicants. The following passages from pp. 7 and 8 of Section C.3.4 of the *Policy and Procedures Manual* issued by the Information, Science and Technology Agency of the Ministry of Advanced Education, Training and Technology are apposite here:

Employees, members and official of public bodies must work with applicants in a partnership to process every request: both parties have an interest in the efficient, timely processing of requests. ...

Public bodies assist applicants in defining their requests and in making them as specific as possible. Vague and overly general requests unnecessarily increase workloads for information and privacy staff and may result in the release of information that is of no interest to the applicant

Where requests are vaguely worded, public bodies attempt to contact applicants by telephone, when possible, to clarify their requests. An applicant's request may be overly broad, for instance, because of a lack of knowledge of the public body's mandate. Without assistance from the public body, applicants may not be able to specify what information satisfies their information needs.

... Where a request would result in the review and disclosure of vast amounts of information (e.g., "send me copies of all the records relating to the construction

of the Coquihalla Highway”), a public body contacts the applicant to see if the request can be narrowed and still meet the applicant’s information needs. In narrowing the request the public body focuses on defining more clearly the information the applicant wants, rather than on identifying the classes of records the public body holds. The public body asks the applicant exactly what she or he is seeking and explains that unrelated information probably would be disclosed in responding to the original request. For non-personal information, narrowing the request reduces the fee for the applicant

The issue of whether the VPD met its s. 6(1) duty to respond to the applicant openly, accurately and completely – despite its not having offered, or disclosed, the classification questionnaire to the applicant as a record responsive to his request – was not properly before me in this inquiry. That issue really only came to light because of the VPD’s open and candid response to my request for clarification. The Notice of Written Inquiry issued by this Office confined the issue to whether or not the VPD complied with its duty under s. 6(1) to search adequately for a record with a particular name. This was the sole basis on which the inquiry was framed and on which the parties made their submissions. Accordingly, while I might be inclined to the view that the VPD was required under s. 6(1) to provide – or at least offer – the classification questionnaire to the applicant, I make no finding or order in this respect.

#### **4.0 CONCLUSION**

Because I have found that the VPD complied with its duty under s. 6(1) in its search for the requested record, no order is necessary under s. 58(3) of the Act.

August 2, 2000

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David Loukidelis  
Information and Privacy Commissioner  
for British Columbia