



**Information and Privacy
Commissioner/Ontario**

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

ORDER MO-1774

Appeal MA-040072-1

Toronto Police Services Board



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NATURE OF THE APPEAL:

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

On February 4, 2004, the requester submitted the following request to the Toronto Police Services (the Police) for access to information:

- “The name and identity of the assailant and a copy of his statement made to the Police when they arrested him on July 06, 1997.
- A copy of the Police Report made by the Officers who arrested him on July 06, 1997.
- A copy of the Police Report made by Officer Neil Anand, signed by my self, (name of requester) on July 6, 1997.”

On February 12, 2004 the Freedom of Information and Privacy Co-ordinator at the Police acknowledged receipt of the request.

On March 12, 2004, the requester appealed to this office because the Police had not replied to his request under the *Act*.

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.

The Police did not issue an access decision for the request within the 30 days, nor did it request a time extension to process the request pursuant to section 20 of the *Act*. Accordingly, the Police placed itself in a "deemed refusal" situation pursuant to section 22(4) of the *Act*.

DISCUSSION:

On March 15, 2004, a Notice of Inquiry was issued to both the appellant and the Police stating that the Police was in a deemed refusal situation. The Notice also advised that if a decision was not issued by March 29, 2004, I would be in a position to issue an order requiring the Police to provide a decision letter to the appellant.

On March 17, 2004, I spoke with an Analyst in the Freedom of Information Office at the Police who indicated she was hoping to have a decision issued by the March 29, 2004 deadline.

On March 31, 2004, I left a voicemail message for the Analyst trying to confirm whether a decision had been issued.

Later in the day on March 31, 2004, I received a letter from the appellant, indicating he had not received a decision from the Police to date and rejected any further delay on the part of the Police to respond to his request.

ORDER:

1. I order the Police to issue a decision letter to the appellant regarding access to the requested records in accordance with the *Act* and without recourse to a time extension, no later than **April 8, 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 April 8, 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: _____

Enza Ragone
Intake Analyst

April 1, 2004