

Information and Privacy Commissioner,
Ontario, Canada



Commissaire à l'information et à la protection de la vie privée,
Ontario, Canada

ORDER MO-2809

Appeal MA12-32

Board of Management of the Toronto Zoo

October 31, 2012

Summary: The Zoo received a four-part request under the *Act* for records relating to three named elephants, including records about their health, records that refer to the moving of the elephants, records regarding a named elephant sanctuary, and other correspondence. The Zoo responded by granting access to certain records and denying access to other records based on specific exemptions in the *Act*. Issues regarding access to the records were resolved, but the appellant raised concerns that the searches for responsive records were not reasonable, and that certain responsive records were destroyed by the Zoo after it had received the request.

This order determines that the earlier searches conducted by the Zoo were not reasonable, but that the Zoo later conducted a sufficiently thorough search for responsive records. It also determines that Zoo staff involved with this matter failed to preserve records subject to an access request until such time as the request process, and any subsequent appeal process before this office or the courts, had been completed.

Statutes Considered: *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, section 17.

Orders and Investigation Reports Considered: Orders PO-880, PO-1730.

OVERVIEW:

[1] The Board of Management of the Toronto Zoo (the Zoo) received a request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*), dated November 4, 2011, for the following:

- Health records for the three elephants at the Toronto Zoo, Iringa, Toka & Thika for the period from April 18th, 2011 to present.
- All correspondence between the Toronto Zoo and the Association of Zoos and Aquariums and their member facilities regarding the elephants from May 1, 2011 to present.
- All other documentation referencing moving the elephants. [Not including correspondence from the public asking that the elephants be moved to a sanctuary].
- All documentation and correspondence from the Toronto Zoo regarding [a named organization] and [an identified animal sanctuary] ...

[2] In response to the request, the Zoo issued a decision on December 22, 2011, in which it indicated that access was granted to certain responsive records, and that access to other records or portions of records was denied on the basis of the exemptions in sections 14(1) (personal privacy), 10(1) (third party information) and 11(g) (proposed plans of an institution) of the *Act*.

[3] The appellant appealed the Zoo's decision to deny access to records or portions of records, and also took the position that additional responsive records ought to exist.

[4] During mediation, the Zoo decided to disclose the records which had been withheld under sections 10(1) and 11(g). In addition, the appellant advised that she was not pursuing access to the portions of the records for which section 14(1) was claimed. As a result, all issues concerning access to the withheld portions of the identified records were resolved and are no longer at issue in this appeal.

[5] After reviewing the newly-disclosed records, the appellant identified that some of those records included emails from the Zoo to other zoo facilities regarding the possible placement of the three elephants, but that she had not been provided with the responses received by the Zoo from these other zoo facilities.

[6] The Zoo conducted another search for these specific records. It then advised that, once the decision to send the elephants to [a named sanctuary] was made, staff at the Zoo believed that the responses from other zoo facilities were no longer required, and that these responses were destroyed. The Zoo then sent a new decision letter to

the appellant in March of 2012, advising her that there were no records responsive to this part of her request.

[7] After receiving the new decision letter, the appellant suggested that the email records for the Toronto Zoo may also be retained in the City of Toronto's main computer system. In response, the Zoo stated that it has back-up emails for only two months, after which time they are deleted by the system. The Zoo also stated that it had deleted the email responses from other zoos in the first week of January, and destroyed the paper records at the same time. As a result, the Zoo maintained that the additional responsive records do not exist.

[8] The appellant expressed concern that emails which were responsive to her request were apparently destroyed after the Zoo received her request. She also questioned the Zoo's position regarding the retention of the backup emails for two months, in light of the fact that she had received other responsive emails from the same time period (June, 2011) in December of 2011, more than two months after they had been created.

[9] Mediation did not resolve the issues, and this file was moved to the inquiry stage of the process on the basis that the Zoo's searches for responsive records were not reasonable, and on the issue of whether the Zoo improperly destroyed certain records.

[10] I initially sent a Notice of Inquiry to the Zoo, asking for representations on the issues. The Zoo subsequently issued an additional decision letter to the appellant (dated May 31, 2012) in which it indicated that certain additional responsive records had been located and that an access decision on these additional records would be made after third party notification under section 21 of the *Act* was completed.

[11] The Zoo also provided representations to me on the issues identified in the Notice of Inquiry. I then sent the Notice of Inquiry, along with a complete copy of the representations of the Zoo, to the appellant, who also provided representations in response.

BACKGROUND INFORMATION

[12] Because of the nature of the issues in this appeal, it is helpful to review in some detail the specific background to this appeal. Most of this background information was provided by the Zoo. To the extent that the appellant disputes some of the information, I address these matters in the issues, below.

[13] As a result of the request made in November of 2011, the Zoo conducted its initial searches for responsive records and located 55 pages of responsive records. The Zoo also indicates, however, that it decided that certain records (three records authored

by other zoo facilities replying to emails sent to them) were not responsive to the request. The Zoo states:

The initial search was conducted in November 2011 by the Director of Corporate Planning [the director] and the Curator of Mammals [the curator]. Given the nature of some of the records found in the initial search, it was believed the documents belonged to the three other zoos, thus the Zoo deemed these documents "not records belonging to the Zoo." Therefore, the Zoo considered these particular documents non-responsive to the request As the Zoo did not determine that these particular records were responsive to the access request, they were not included in the access decision prepared for the Zoo.

[14] In February and March of 2012, during the course of processing this appeal file and addressing the questions raised by the appellant, the Zoo reviewed whether these three records existed. Because of the Zoo's earlier decision that these three records were not responsive to the access request, the Zoo stated that these three records were dealt with in the ordinary way in which records of this nature are disposed of, and that they were believed to have been destroyed in January of 2012. The Zoo states:

In January, the Zoo's [director] destroyed the paper records and [the director] believed at the time that the e-mail records were also deleted. As per the Toronto Zoo Records Retention By-law 87-92, the records in question are "Curatorial Files." Curatorial Files are retained until superseded. In this particular case, the Zoo no longer had a need for these documents, as the decision had been made by City Council in October to send the elephants to [an identified animal sanctuary].

Additionally, as the Zoo determined that these records were not responsive to the access request, these documents were not retained past the operational requirements concerning the issue of the placement of the elephants. Therefore, Zoo staff believed the records were not required to be retained under Toronto Zoo Records Retention Bylaw 87-92. No other records management policies or procedures applicable to these records exist.

[15] As a result of the above, the Zoo issued the March, 2012 decision that no additional records exist.

[16] This appeal continued to proceed, and the Zoo subsequently conducted a further search for the records. This later search resulted in the Zoo locating two of the three records (the responses from two of the zoo facilities) which the Zoo believed had been destroyed. These two records were the email responses from two of the zoo facilities which had, in fact, not been destroyed. The third response from the third zoo had only

been received in hardcopy, and that record had been destroyed. The Zoo provided the following explanation in its representations:

With respect to the ... e-mail records recently located ... originating from [two named zoo facilities], the responsible Zoo staff confirmed there was an inadvertent oversight that occurred with respect to the second search conducted in March. Due to the content of a conversation between [the curator] and [the director] in early January, in the process of [the director] obtaining the hard copy records from [the curator], [the director] was under the assumption (erroneously, as subsequent events have established) that the e-mail records had been deleted at the same time as the hard copy records which were destroyed in January, 2012.

Due to ongoing issues and pressures on Zoo staff at the time, Zoo staff did not verify [the director's] assumption concerning the existence or deletion of the e-mails during the second search in March. Subsequently, [the director] did undertake to verify the existence of the e-mail records relating to the current request. They were located.

Therefore, [the director] incorrectly advised ... in March that the e-mails had been deleted.

[17] As a result, the Zoo confirms that the email copies of the responses from two other zoo facilities were not destroyed, but that the record received from the third zoo facility, which was only received in hardcopy, was destroyed.

[18] I note that the Zoo has also provided an affidavit, sworn by the director, referring to and confirming the information provided above.

ISSUES:

A: Did the Zoo conduct a reasonable search for records?

B: Did the Zoo destroy the records? If so, what were the circumstances surrounding the destruction? Also, if so, what is the appropriate remedy?

DISCUSSION:

Issue A: Did the Zoo conduct a reasonable search for records?

[19] In appeals involving a claim that additional responsive records exist, as is the case in this appeal, the issue to be decided is whether the Zoo conducted a reasonable search for the records as required by section 17 of the *Act*. If I am satisfied that the

search carried out was reasonable in the circumstances, the Zoo's decision will be upheld. If I am not satisfied, further searches may be ordered.

[20] A number of previous orders have identified the requirements in reasonable search appeals.¹ In Order PO-1744, Acting-Adjudicator Mumtaz Jiwan made the following statement with respect to the requirements of reasonable search appeals:

... the Act does not require the Ministry to prove with absolute certainty that records do not exist. The Ministry must, however, provide me with sufficient evidence to show that it has made a reasonable effort to identify and locate responsive records. A reasonable search is one in which an experienced employee expends a reasonable effort to locate records which are reasonably related to the request (Order M-909).

[21] I agree with Acting-Adjudicator Jiwan's statement.

[22] Where a requester provides sufficient detail about the records that he/she is seeking and the institution indicates that records or further records do not exist, it is my responsibility to ensure that the institution has made a reasonable search to identify any records that are responsive to the request. The *Act* does not require the institution to prove with absolute certainty that records or further records do not exist. However, in my view, in order to properly discharge its obligations under the *Act*, the institution must provide me with sufficient evidence to show that it has made a reasonable effort to identify and locate records responsive to the request.

[23] Although an appellant will rarely be in a position to indicate precisely which records have not been identified in an institution's response, the appellant must, nevertheless, provide a reasonable basis for concluding that such records exist.

Representations

[24] In addition to the background information referred to above, the Zoo provided representations regarding the nature of the searches conducted for responsive records, and the results of those searches. In the Notice of Inquiry I sent to the Zoo, I also asked the Zoo to answer specific questions regarding the searches conducted, and to address the questions raised by the appellant earlier in the appeal regarding the possible existence of other additional responsive records.

[25] The Zoo provides information concerning the nature of the searches conducted for responsive records. It states that the initial search was conducted in November, 2011 by the director and the curator, and that the curator's e-mail and paper files were searched. The Zoo also states that, because the curator had been the Zoo's contact

¹ See Orders M-282, P-458, P-535, M-909, PO-1744 and PO-1920.

with the other zoos, except for hard copies of records which were forwarded to the director, the records were not forwarded to any other staff members. Accordingly, no other employees were contacted.

[26] With respect to the three records which had initially not been identified as responsive records, the Zoo identifies the dates that these records were received from the three zoo facilities. It also confirms that one of the responses was sent to it by email alone, one was sent by mail alone, and one was sent by both email and regular mail. The Zoo confirms that these records were received by the curator, and that no copies were made.

[27] Regarding the issue of whether the searches for records were reasonable, the Zoo confirms that the email responses from the two zoo facilities were located later in the process. With respect to the third zoo facility, the zoo states that it could not locate the hard copy records received from that zoo facility. In the affidavit provided by the director, the director confirms that the hardcopy records were destroyed. She states:

On or about January 17, 2012, I destroyed the paper records obtained from [the curator], as I verily believed, at that time, that such records were non-responsive to the access request, and were otherwise suitable for destruction in accordance with the applicable record retention by-law, Toronto Zoo Records Retention By-law No. 87-92, as the records in question were "Curatorial Files" which need to be retained only until no longer needed for operational purposes. As of January 17, 2012 these documents, were no longer required, as the decision had been made to transport the subject elephants to an unrelated facility known as [an identified animal sanctuary].

[28] The Zoo also confirms that, as a result of this appeal and the Notice of Inquiry sent to it, the Zoo attempted to obtain a copy of the record which was destroyed. It states:

A request was made to [the third zoo] to resend the documents; they declined. No e-mail records ever existed from [the third zoo].

[29] The Zoo's representations were shared in full with the appellant, who also provided representations in response. The appellant's representations focus more on questions about the actions of the Zoo, which I address below. They do not directly address the issue of whether the searches conducted for records were reasonable.

Findings

[30] As set out above, in appeals involving a claim that responsive records exist, the issue to be decided is whether the Zoo has conducted a reasonable search for the

records as required by section 17 of the *Act*. In this appeal, if I am satisfied that the Zoo's search for responsive records was reasonable in the circumstances, the Zoo's decision will be upheld. If I am not satisfied, I may order that further searches be conducted.

[31] A reasonable search is one in which an experienced employee expending reasonable effort conducts a search to identify any records that are reasonably related to the request [Order M-909]. In addition, in Order M-909, Adjudicator Laurel Cropley made the following finding with respect to the obligation of an institution to conduct a reasonable search for records. She found that:

In my view, an institution has met its obligations under the *Act* by providing experienced employees who expend a reasonable effort to conduct the search, in areas where the responsive records are likely to be located. In the final analysis, the identification of responsive records must rely on the experience and judgment of the individual conducting the search.

[32] I adopt the approach taken in the above orders for the purposes of the present appeal.

[33] To begin, I find that in the course of responding to this request, the Zoo's searches for responsive records were inadequate on two occasions.

[34] The first took place when the Zoo read the request in what can only be considered an overly narrow manner, and therefore decided that the three responses from the three zoo facilities were not responsive to the request. This action by the Zoo resulted in the three records not being considered part of the records responsive to the request and appeal, and ultimately resulted in one of these records being destroyed.

[35] Previous orders have confirmed the importance of properly determining the scope of a request. In Order P-880, former Adjudicator Anita Fineberg stated:

In my view, the need for an institution to determine which documents are relevant to a request is a fundamental first step in responding to a request. It is an integral part of any decision by a head. The request itself sets out the boundaries of relevancy and circumscribes the records which will ultimately be identified as being responsive to the request.

[36] Adjudicator Fineberg also made the following general statement regarding the approach an institution should take in interpreting a request, which was cited with approval by Commissioner Ann Cavoukian in Order PO-1730:

... the purpose and spirit of freedom of information legislation is best served when government institutions adopt a liberal interpretation of a request. If an institution has any doubts about the interpretation to be given to a request, it has an obligation pursuant to section 24(2) of the *Act* to assist the requester in reformulating it. As stated in Order 38, an institution may in no way unilaterally limit the scope of its search for records. It must outline the limits of the search to the appellant.

[37] I agree with the above statements. Clarity concerning the scope of an appeal and what the responsive records are is a fundamental first step in responding to a request and, subsequently, determining the issues in an appeal. Furthermore, adopting a liberal interpretation of the request ensures that records which might be responsive to the request are not omitted from the search. In addition, if an institution chooses to adopt a limited interpretation of a request, it ought to indicate to a requester the limits of its search. If the Zoo had done so in this case, it is possible that the requester could have identified at that point in time that the three records were responsive, and concerns regarding the destruction of records would not have been raised.

[38] Accordingly, I find that in its initial response to the request, the Zoo improperly interpreted the scope of the request in a narrow manner, and also failed to identify for the requester the limits of its search.

[39] The second took place when the Zoo conducted a later search for records, resulting in its March, 2012 decision which indicated that two email records had been destroyed when, in fact, these two records still existed. As indicated above, the Zoo takes the position that, due to an "inadvertent oversight," it inaccurately stated that two email records no longer existed when, in fact, they did exist. This "oversight" occurred because of assumptions made, based on earlier conversations, that the emails had been destroyed.

[40] Later verification by the director confirmed that the emails had not been destroyed, and they were subsequently located. I note, however, that the failure to properly search for records at this later stage of the process could have resulted in the two email records being subsequently destroyed. Fortunately, this did not occur, and the records were later located and an access decision was made on them.

[41] Accordingly, I find that the Zoo's searches for responsive records were inadequate, both at the initial stage of the request, and subsequently, in March of 2012.

[42] The issue before me in this appeal, however, is whether the searches that have now been conducted for responsive records were reasonable.

[43] The Zoo concedes that the earlier searches for responsive records were not reasonable. However, it also provides representations and affidavit evidence regarding the nature and extent of its more recent searches, and results of those searches. It also states that it conducted a further search for responsive records in April of 2012. This is the search which resulted in the identification of the two emails believed to have been destroyed. The Zoo indicates that no other responsive records were located.

[44] Furthermore, the Zoo has stated that, with respect to the record that was destroyed, it made attempts to obtain another copy of the record by contacting the zoo facility from whom it received the destroyed record. That facility refused to provide the Zoo with a copy.

[45] As indicated above, the appellant's representations do not directly address the issue of whether the searches conducted for records are reasonable.

[46] In this appeal, the Zoo was asked to provide representations regarding the nature of the searches conducted for responsive records, and it provided evidence from the individuals who conducted the searches. Although I have found that the earlier searches conducted by the Zoo were not reasonable, based on the material provided by the Zoo, including the affidavit evidence, I am satisfied that the Zoo has now conducted a reasonable search for responsive records.

Issue B: Did the Zoo destroy the records? If so, what were the circumstances surrounding the destruction? Also, if so, what is the appropriate remedy?

[47] The background information and facts about the circumstances regarding this appeal are set out above.

[48] Based on the background information set out above, it is clear that the Zoo destroyed the only copy of a record it had received from one of the zoo facilities.

[49] The circumstances of the destruction are also set out above. This record (along with email records which were later located) was not considered to be responsive to the November, 2011 request, and was not included in the records forwarded to the Freedom of Information Office. Accordingly, in January of 2012, this record was destroyed in accordance with the Zoo's records retention procedures. The Zoo, through the affidavit of the director, reviews the reasons why this record was not considered responsive, and why it was destroyed.

[50] The Zoo also identifies three ways in which it has addressed the issues arising from the decision that this record was not considered responsive, and resulting in the destruction of the record.

- The Zoo has indicated that it approached the zoo facility which had sent the destroyed records, and asked that facility to resend the documents. That zoo facility declined to do so.
- The Zoo states that it is aware of the error in framing the initial request. It states:

... [the Zoo] acknowledges its error in destroying records after the current access request was received, as a possibility existed that issue of the responsiveness of the destroyed records would be raised in the context of an appeal of the access request. The Zoo is now aware that ... the *possibility* that records may become involved in an outstanding access process would require the retention of these documents until the resolution of the request and any related proceedings. Such an expectation could create a continuing business need for the Zoo to retain these documents. Therefore, under Toronto Zoo Records Retention By-law 87-92 the documents should not have been destroyed until such time as the request and related proceedings had been fully resolved.

- The Zoo has identified that it is prepared to address issues regarding the proper manner to respond to requests, by providing remedial steps and appropriate training to staff regarding these matters. It states:

... the [Toronto] City Clerk's Office, Corporate Information Management Services section has offered to provide training and awareness sessions to the Zoo with respect to establishing records management and access request procedures to ensure compliance with MFIPPA requirements. The training sessions are expected to occur over the next few months.

- The Zoo also indicates that Zoo staff have already met with the City Clerk's Office, Corporate Information Management Services section to arrange for appropriate training and awareness sessions.

[51] The appellant takes issue with the Zoo's position.

[52] The appellant begins by questioning the explanation given by the Zoo as to why Zoo staff destroyed the documents, and argues that their position is "not supported by the facts around this issue." She confirms that the Zoo provided her with records in this appeal, and then states:

Those documents not only included correspondence that was dated earlier than the timeframe the zoo staff claim they normally destroy documents, but in addition they provided some photographs of elephant crates that were provided to them by another [named] outside party [party A].

The zoo claims in their submission that they destroyed the documents after my information request was filed because they mistakenly considered documents received from [the three other Zoo facilities] as records belonging to the outside parties and thereby not responsive to my request. However, if their submission were true, why then would they provide only selective documents from outside parties, such the photos that were provided to them by [party A], but destroy other documents from outside parties, such as the zoos. Based on their stated understanding of which documents were responsive, the crate photos would have also been destroyed on the same basis as the other documents.

[53] The appellant then questions whether the Zoo was acting in good faith when it made the decisions relating to this request. She refers to materials (statements, press clippings, etc.) which raise concerns that some zoo staff have not been acting in good faith with respect to the placement of the elephants, and states that some staff were opposed to the decision to send the elephants to the named sanctuary. She then states:

The reason I raise this issue, which on first blush may not appear relevant to this inquiry, is that these ongoing attempts to change the decision [to send the elephants to the named sanctuary] indicate that zoo staff may not [be] acting in good faith with respect to [the decision] and in that light may not want certain documents to be made available, including some that were destroyed.

[54] The appellant also suggests that there may have been another reason to destroy responsive records, namely, that the records may reveal that certain zoo facilities that were being considered were not appropriate. She refers to the earlier decision by the Zoo to close the elephant exhibit, and then states that Zoo staff were directed to conduct research regarding facilities that could take the three elephants. She also states that staff:

... were specifically told they must find a facility that has eliminated the use of [certain negative enforcement "tools" used to force elephants to perform certain actions]. However, the facilities that the zoo staff had contacted including [the three zoo facilities] are well known (both within the zoo industry as well as through media coverage) for their use [or intended use] of [these negative enforcement "tools"].

[55] The appellant then states that, given this background:

... it is highly possible that the documents that I have requested may reveal that zoo staff were considering facilities still using [these negative enforcement "tools"] and thereby not following the directive they had received from the zoo board. If this is the case, it is not unreasonable to conclude that some zoo staff may not want the documentation received from these facilities to be made available to the public, or the zoo board and council.

[56] The appellant summarizes her position by indicating her dismay at the actions of the Zoo, commenting on their decisions, and indicating that the Zoo's actions impede and frustrate accountability. She also submits that, based on her view of the Zoo's actions, Zoo staff involved with this matter "have committed a serious breach of the *Act* to preserve records subject to an access request until such time as the request process and any subsequent appeal process before the IPC office had been completed." She then states:

I would like to urge you to take whatever measures are available to you to make the zoo staff accountable for their actions. Additionally, I would like to request that your office make Toronto City Council aware of what has transpired, so that they can take appropriate action as well.

Findings

[57] I have carefully considered the representations received from the parties on this issue.

[58] I have found above that the Zoo's earlier searches for responsive records were not reasonable, and that this resulted in the destruction of one responsive record, and the identification of two other records only later in the process.

[59] I also note that the evidence submitted by the Zoo was provided to me in affidavit form sworn by the director involved in this matter. In her sworn affidavit, the director specifically refers to the decisions which were made that resulted in certain records not being identified as responsive, and the reasons for those decisions. I accept the sworn evidence provided by the director of the Zoo.

[60] With respect to the concerns raised by the appellant that the decisions by the Zoo were not made in good faith, although I understand the appellant's frustration at having made a request for records and discovering that some records were destroyed after her request was submitted, I do not find that the actions of the Zoo were made in bad faith.

[61] Regarding the appellant's references to the fact that material received from party A was considered responsive whereas material from the three zoo facilities was not, I do not agree with the appellant that this raises questions about the explanation given by the Zoo. The three records which were considered not responsive to the request were responses received from the three zoo facilities to a specific request for information concerning those facilities, and are responsive to the second part of the appellant's request. The records relating to party A include photographs, documents and correspondence (including emails) about the transporting of the elephants, and are responsive to the third part of the appellant's request. Although the Zoo ought to have considered all of these records as responsive to the request (which the Zoo acknowledges), the nature of these two types of records are distinct. In these circumstances, I am not persuaded that the Zoo's decision that party A's records were responsive and that the three zoo facilities' records were not responsive support the concerns about bad faith raised by the appellant.

[62] With respect to the appellant's concern that the identity of the three zoo facilities and their alleged practices was a factor in deciding that the three records were not responsive, I also am not persuaded that this argument supports the appellant's concerns about bad faith on the part of the Zoo. I note that certain records which were considered responsive to the request specifically identify the three zoo facilities as ones that were being considered by the Zoo. The appellant herself has stated that the practices of these facilities are well known (both within the zoo industry as well as through media coverage). The fact that these zoo facilities were identified in responsive records argues against the appellant's bad faith concerns.

[63] In the circumstances, it is clear that the Zoo destroyed one of the three responsive records in January of 2012, and that this destruction occurred after the appellant's request had been made. As a result, issues regarding access to that record cannot be determined. In that regard, the Zoo's failure to preserve records that were subject to a request has compromised the integrity of the access process (see Order M-1053). However, the Zoo has acknowledged its actions and has taken steps to both attempt to obtain another copy of the destroyed record and to ensure future compliance with its obligations under the *Act*. In these circumstances, and given my finding that the Zoo has not acted in bad faith, I will make no order with respect to the destruction of records.

[64] Lastly, by issuing this public order, which summarizes the background and decisions in this appeal, I am making the actions of the Zoo public.

ORDER:

1. I find that the earlier searches conducted by the Zoo for responsive records were not reasonable, but that the Zoo has now conducted a reasonable search for responsive records, and I dismiss this aspect of the appeal.

2. I find that Zoo staff involved with this matter failed to preserve records subject to an access request until such time as the request process, and any subsequent appeal process before this office or the courts, had been completed.

Original Signed by: _____
Frank DeVries
Adjudicator

_____ October 31, 2012