

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER MO-4661

Appeal MA25-00164

Toronto Police Services Board

June 5, 2025

Summary: An individual asked the Toronto Police Services Board for records about facial recognition technology. The police granted partial access to the requested records. To date, the police have not released the records they agreed to release in its decision letter, despite the appellant paying for the records. The decision-maker finds that the police failed to disclose records in its decision, as required under section 19 of the *Act*, and orders the police to release those records by June 19, 2025.

Statutes Considered: *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, section 19.

BACKGROUND:

[1] This appeal arises after the issuance of IPC Order MO-4411, which dealt with the appellant's June 2, 2020, request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) to the Toronto Police Services Board (the police) for facial recognition technology records.

[2] In Order MO-4411, issued on July 13, 2023, the adjudicator ordered the police to issue a final access decision on the appellant's reformulated request,¹ treating the date

¹ During mediation, the appellant claimed that additional records should exist. Working with the mediator, the appellant reformulated his request to specify he was seeking access to records related to Clearview AI facial recognition technology. The police identified 1177 emails as responsive to the reformulated request and issued a fee estimate of \$592.50, requesting that, in accordance with the *Act*, the appellant pay 50

of this order as the date of the request.²

[3] On October 9, 2024, the appellant filed an appeal with the IPC when the police failed to issue a final decision in accordance with Order MO-4411.

[4] On June 5, 2024, the police issued its final decision to the appellant, granting partial access to the requested records. The police requested the remaining fees prior to releasing the records.

[5] On July 2, 2024, the appellant paid the remaining fees.

[6] On February 15, 2025, the appellant appealed to the IPC because the police failed to disclose the records it decided to release in its decision of June 5, 2024. File MA25-00164 was opened, and I was assigned as Case Lead.

[7] On April 3, 2025, I decided to conduct an inquiry and issued a Notice of Expedited Inquiry, encouraging the police to release to the appellant the records it decided to release in its decision by April 24, 2025.

[8] On April 30, 2025, the police advised that it was hoping to have a response by early June 2025. Considering the above, and to ensure there are no further delays in processing this request, I will order the police to release to the appellant the records it decided to disclose in its decision of June 5, 2024.

DISCUSSION:

[9] When an institution decides to disclose records, or parts of records, in response to a request under the *Act*, section 19 of the *Act* outlines how this disclosure is to take place. This section states:

19. Where a person requests access to a record, the head of the institution to which the request is made or if a request is forwarded or transferred under section 18, the head of the institution to which it is forwarded or transferred, shall, subject to sections 20, 21 and 45, within thirty days after the request is received,

percent of the fee estimate before it continued to process the request. The police advised that portions of the records responsive to the reformulated request may be withheld from disclosure under the discretionary exemptions in sections 8 (law enforcement) and 12 (solicitor-client privilege) and the mandatory exemption at section 14(1) (personal privacy) of the *Act*.

² In addition, the adjudicator found that the exemptions claimed by the police to an internal procedure document did not apply and ordered the police to disclose it to the appellant. While the adjudicator upheld the police's fee estimate for the emails responsive to the reformulated request, they ordered the police to waive 50% of the fee estimate. The police confirmed that it released the internal procedure document to the appellant and therefore, this record is not at issue in this appeal.

(a) give written notice to the person who made the request as to whether or not access to the record or a part of it will be given; and

(b) if access is to be given, give the person who made the request access to the record or part, and if necessary for the purpose cause the record to be produced.

[10] Previous orders have reinforced that section 19 of the *Act* requires an institution to issue a decision and to disclose those records for which access is to be given within 30 days of receipt of the request.³ However, where payment of a fee is required before disclosure, the '30-day clock' is paused, pending payment and begins to run again upon receipt of payment.⁴

[11] On June 5, 2024, the police issued a final decision, with an index of records, indicating where it decided to give, or not give, access to each record and requesting payment of the remaining fee. The appellant subsequently paid the fee on July 2, 2024.

[12] To date, the police have not disclosed the records it decided to disclose to the appellant in its decision.

[13] As the police have not released the records to date as decided in its decision of June 5, 2024, the police have not complied with its obligations under section 19 of the *Act*. Therefore, I will order it to do so.

ORDER:

1. I order the police to release to the appellant the records it decided to release in its decision of June 5, 2024, **by June 19, 2025**.
2. To verify compliance, the police shall provide me by email a copy of the correspondence to the appellant, releasing the records by **June 19, 2025**.

Original Signed by: _____

Alline Haddad
Case Lead

June 5, 2025

³ Order MO-2275.

⁴ Order 81.