



Information Commissioner's final report

Institution: Correctional Service Canada

OIC file number: 5820-01453

Institution file number: A-2018-00333

Date: February 2, 2021

Complaint

The complainant alleges that the Correctional Service Canada (CSC) missed the deadline for responding to a request under the *Access to Information Act*.

Investigation

On December 3, 2018, CSC received a request for all records related to the Joyceville Abattoir Slaughterhouse. Based on the date of receipt, the statutory 30-day deadline for a timely response was January 2, 2019.

On July 4, 2019, six months after the statutory deadline for a timely response had passed, the Office of the Information Commissioner (OIC) received a complaint and an investigation was launched. The investigation ultimately determined that CSC's delay in responding to the request was due to the institution managing the workload of the requestor's multiple access requests, staffing shortages in the Access to Information Division, and an overall lack of cooperation from the responsible Offices of Primary Interest that held the records at issue.

Through OIC's intervention, the investigation concluded as CSC and the requestor both agreed to a new disclosure date of March 6, 2020.

After CSC failed to respond to the request by the agreed-upon deadline, the OIC received a new complaint on September 23, 2020.

The OIC asked CSC about the new delay while also highlighting that the request should have been responded to prior to the onset of the Covid-19 pandemic. CSC responded that it would process the access request by November 20, 2020. However, on November 19, 2020, CSC told the requestor that it would not be able to meet the release date of November 20, 2020. CSC explained that while the file's processing was completed, the November 20, 2020 release date could not be met because it was awaiting responses to internal consultations.

Pursuant to subsection 10(3), when an institution fails to give access to a record requested, or a part thereof, within the time limits set out in the Act, the head of the institution is "deemed" to have refused to give access. In this instance, CSC is still failing to respond to the access request and is therefore deemed to have refused access.

In the two years since CSC's initial receipt of the access request, none of the 1,444 pages of records at issue have been released. CSC has consistently failed to abide by the numerous commitments that it has made to the complainant and continues to fail to meet its obligation under the Act.

I should add that it is very disappointing to see that the main reason provided to the OIC during the investigation for the additional delay was the CSC Access to Information and Privacy Unit being unable to obtain timely responses to consultations of their own department officials. The Act's timelines apply to the institution as a whole. Being late to respond to an access request because of "internal" consultations is unfair to Canadians and puts the credibility of the access system in question.

Results

- CSC is deemed to have refused access to the requested information, as per subsection 10(3).
- The complaint is well founded.

Order

Under [subsection 36.1\(1\)](#) of the *Access to Information Act*, I order the Minister of Public Safety and Emergency Preparedness to:

1. Provide a final response to the access request submitted on December 3, 2018; and,
2. Email a copy of the response letter to the Office of the Information Commissioner's Registrar (Grefe-Registry@oic-ci.gc.ca).

On January 7, 2021, I issued my initial report to the Minister of Public Safety and Emergency Preparedness, as the head of CSC, setting out my intention to issue the current order.

On January 18, 2021, CSC gave me notice that they would be implementing my order and that they anticipate responding to the request by February 22, 2021.

CSC, however, explained that it would attempt to commence a consultation process with a third party, as required by section 27 of the Act. It anticipated being able to start the process by January 22, 2021, which would allow CSC to respond to the request by February 22, 2021.

While CSC is obliged to respect the Act and therefore required to consult third parties in the processing of third party information, I am at a loss as to why CSC did not initiate the required consultation between December 2018 and January 2021 when I sent my initial report to the Minister. The fact of the matter is that CSC must now do what it can to respond to the access request by the latest, the day by which my order will take effect in accordance with [subsection 36.1\(4\), unless a person applies for a review by this deadline.](#)

Section 41 of the Act provides a right to any person who receives this report to apply to the Federal Court for a review. Complainants and institutions must apply for this review within 35 business days after the date of this report. The person who applies for a review must serve a copy of the application for review to the relevant parties, as per [section 43.](#)



Caroline Maynard

Information Commissioner of Canada