

**THE NOVA SCOTIA FREEDOM OF INFORMATION
AND PROTECTION OF PRIVACY ACT
(MUNICIPAL)**

A **REQUEST FOR REVIEW** of a decision of the **NEW GLASGOW POLICE SERVICE** in response to an application for access to an individual's own personal information.

REVIEW OFFICER: Darce Fardy

REPORT DATE: **January 21, 2004**

ISSUE: Whether the Applicant has been specific enough in his application to enable the Police to respond [s.466(1)(b)]. Whether the Police have made every reasonable effort to assist the Applicant [s.467(1)(a)].

In a Request for Review under **Part XX of the Municipal Government Act**, received October 29, 2003, the Applicant asked that I interpret the response of the **New Glasgow Police Service** (the Police) to his application as a refusal to provide the information he is seeking.

The Applicant asked for "all information the New Glasgow/Westville Police Department has in reference to myself." In its reply the Police said that "under the guidelines of the Supreme Court I believe your request for information is too broad. Your request needs to be more specific to a particular incident or incidents." The Applicant was told that his application should be more specific "so that someone familiar with the subject matter can find the information." He was asked to file another application.

The Applicant, instead, filed an appeal with this office. In his appeal letter he said that the

reply he received from the Police amounted to a denial to provide him with the information requested.

The Police explained that they maintain their files by date and/or incident, not by name, and that this explains why they asked the Applicant to be more specific.

The relevant sections of the **Act** are **466(1)(b)** and **467(1)(a)**. S.466(1)(b) requires an applicant to specify the subject matter of the record requested “with sufficient particulars to enable an individual familiar with the subject matter to identify the record.” S.467(1)(a) expects a public body “to make every reasonable effort to assist the applicant and to respond without delay to the applicant, openly, accurately and completely.”

Conclusions:

I do not agree with the Applicant that the response he received could be deemed a refusal. I saw no reason to conclude that the Police were turning down his application. **S.467(3)** reads:

A responsible officer who fails to give a written response is deemed to have given notice of a decision to refuse to give access to the record thirty days after the application was received.

The Police responded to the application by mail, dated October 1, 2003. The application was dated September 1, 2003. It cannot be considered a deemed refusal.

In my experience the kind of application made by the Applicant is often considered specific enough, particularly when an applicant asks for all the records containing his/her own personal information. However, in this case, given the practice of the Police in filing by date or incident, their request for a more specific application was reasonable.

With respect to s.467(1)(a) it cannot be said that the Police replied to the application “without delay.” The Act gives a public body thirty days to respond. Unfortunately some public bodies take the thirty days to reply even though a reply could be made earlier. In this case the request for a more specific application could have been made as soon as the application was received and read. However, the Applicant should have taken the suggestion of the Police and tried to make his application more specific. Applicants, as well as public bodies, must see to it that the requirements of the **Act** are respected.

While neither party, in my view, acted in accordance with the spirit of the **Act**, the Police did what was required.

I suggest the Applicant make a more specific application.

Recommendations:

That the Police, if and when a more specific application is received from this applicant, process any new application with dispatch.

Section 493 of the Act requires the responsible officer to make a decision on these recommendations within 30 days of receiving them and to notify the Applicant and the Review Officer, in writing, of that decision.

Dated at Halifax, Nova Scotia this 21st day of January, 2004.

Darce Fardy, Review Officer