



Prince Edward Island Île-du-Prince-Édouard

Legislative Assembly

Information and
Privacy Commissioner
PO Box 2000, Charlottetown PE
Canada C1A 7N8

Assemblée législative

Commissaire à l'information et
à la protection de la vie privée
C.P. 2000, Charlottetown PE
Canada C1A 7N8

PRIVATE AND CONFIDENTIAL

January 11, 2023

[REDACTED]
[REDACTED]
[REDACTED] u
[REDACTED] [REDACTED]

"VIA EMAIL"

Dear [REDACTED],

Re: Request for Review under the *Freedom of Information and Protection of Privacy Act*
Public Body: Charlottetown Police Services (City of Charlottetown)
Public Body File No.: FOIPP-2022-002
Our File No.: FI-22-466

On May 26, 2022, you sent us a request for review about your access request for the following information:

Please provide all records relating to the Charlottetown police's drug drop-off box located at 10 Kirkwood Drive, including:

- a) Any audits, reviews or assessments of the drug drop-off program,
- b) Written correspondence including any of the mayor, [REDACTED], [REDACTED], [REDACTED] and [REDACTED]
- c) Any lists of the inventory related to the type and quantity of drugs that have been dropped off.

Timeframe: May 2013-February 2022

The Public Body advised you that they did not have any responsive records, and you asked us to review the adequacy of the Public Body's search. We requested, received and reviewed the Public Body's processing records, and asked them a few questions. We intended to provide the Public Body's submissions to you, but it is easier and clearer to summarize their position and evidence.

The Public Body provided internal emails with the three people who conducted the searches: an Information Technology Specialist (to search the records of the former Chief of Police), a Detective, and the Chief of Police. Each confirmed that they did not locate any responsive records. When we asked, the FOIPP coordinator verbally confirmed that they searched records of the Mayor but did not find any responsive records. The FOIPP coordinator advises that they also spoke to the Chief, Deputy Chief and another Constable about the process for the drug drop-off program, to assess whether there were any other places to search for responsive records. We were advised these individuals did not have any other suggested areas to search.

Although your request was for records from May 2013 to February 2022, the Public Body searched from April 1, 2019 to February 1, 2022. I have no concerns about this because the access provisions

of the *FOIPP Act* do not apply to records created before the City of Charlottetown became subject to the *FOIPP Act*, which was on April 1, 2019. I considered the examples that you gave to support your belief that there were missing records. These examples were from before April 1, 2019, which was prior to the City being subject to the *FOIPP Act*. I am not persuaded that these examples lead to a reasonable belief that there are other responsive records for the time period the City was subject to the *FOIPP Act*.

Public Bodies are not held to a standard of perfection, but one of reasonableness. A reasonable search is one in which an employee who is experienced in the subject matter makes a reasonable effort to locate records which are reasonably related to the request. The Public Body's submissions and copies of their emails illustrate that their search efforts were reasonable, based on the wording of your request and the period that the *FOIPP Act* applied to the City of Charlottetown.

Not every request for a review proceeds to an inquiry. Subsection 64.1(b) of the *FOIPP Act* gives us the discretion to refuse to conduct a review if the circumstances warrant. I am not persuaded that I have enough evidence to reasonably believe that the Public Body could have other records responsive to your request. In these circumstances, I have decided not to conduct a review into the adequacy of the Public Body's search.

Enclosed is a letter we have written to the Public Body. The Public Body was not able to search the records of one police officer you named in your access request. The officer's email account was deactivated in October 2019. The Public Body has advised us that they have fully implemented an archives and retention schedule. However, in October of 2019, they were in the process of implementing their archives and retention program and this email account was not captured in the Public Body's archives. Therefore, this email account is not accessible and was not able to be searched by the Public Body at the time they conducted their search for records responsive to your access request.

We understand that the Public Body did not advise you of this limitation in their search, which may be a shortfall in the Public Body's duty to respond to you openly, accurately and completely. We have decided not to conduct a review into this matter but, as you will see, we have made some recommendations to the Public Body.

Sincerely,



Denise N. Doiron

Information and Privacy Commissioner

Enclosure: letter to the Public Body of today's date (2 pages)

- c: FOIPP Coordinators, City of Charlottetown (with no enclosure) (via email)
- FOIPP Coordinator, Charlottetown Police Services (via email)
- Chief of Police (via email)