



Yukon Information and Privacy Commissioner

Many requests for Reviews or complaints received by the Information and Privacy Commissioner (IPC) are resolved informally. In these cases, a wide variety of issues are considered and conclusions reached about the application of the ATIPP Act. Case summaries are only completed by our office where we determine there is educational value for Yukoners and public bodies in understanding how the ATIPP Act was interpreted and applied in a case.

ATIPP Act Case Summary A2014-CS-001

The Public Body improperly relied on subsection 1 (2) of the Access to Information and Protection of Privacy Act (ATIPP Act) to refuse an Applicant access to records and failed to meet the requirements of sections 9 and 10.

The Records Manager complied with section 7 of the ATIPP Act but failed to meet the requirements of section 13.

Background Facts

The Applicant requested a copy of video records that included images of him as well as other individuals.

The Public Body advised the Records Manager that it refused to grant access to the records on the basis of subsection 1 (2) of the ATIPP Act. The Records Manager referred the Public Body to Yukon IPC Decision on ATP12-031 wherein the Information and Privacy Commissioner (IPC) found that subsection 1(2) of the ATIPP Act does not provide a public body with authority to refuse access to a record under the ATIPP Act. The Public Body did not change its response.

The Applicant requested a Review of the refusal. The IPC authorized a mediator to investigate and attempt to settle the matter under Review.

ATIPP Act Provisions

The provisions of the ATIPP Act engaged as part of the investigation were the definition of “records” in section 3, subsection 1 (2), and sections 7, 9, and 10 and 13.

Investigator’s Conclusions

The conclusions reached by the Investigator were as follows.

1. A video record is a “record” as defined in section 3.

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2. Subsection 1 (2) does not provide the public body with authority to refuse access to a record. Sections 15 to 25 are the only sections of the ATIPP Act which authorize a public body to refuse access to a record. Subsection 1 (2) recognizes that the ATIPP Act and any other process a public body may have in place to give access to records co-exist and are equally available as a means of accessing records.¹
 3. The Public Body failed to meet the requirement of section 10 to make every reasonable effort to enable the Records Manager to respond to the Applicant openly, accurately and completely. The Public Body proceeded to rely on subsection 1 (2) as authority to refuse access to records despite being informed by the Records Manager that the IPC had already found that subsection 1 (2) does not provide authority for a public body to refuse access to records under the ATIPP Act. The Records Manager's attempt to identify that the decision made by the Public Body was inaccurate constituted a reasonable effort to comply with section 7.
 4. The Records Manager failed to meet the requirements of subparagraph 13 (1)(c)(i) given that the response provided to the Applicant identified a provision of the ATIPP Act as authority to refuse access to the records that does not give the Public Body this authority.
 5. The Public Body failed to meet the requirement of subsection 9 (b) as it did not provide the Records Manager with information that would enable the Records Manager to provide a response that meets the requirements of section 13.

Resolution

All the parties accepted the Investigator's conclusions and recommendation that the Public Body and Records Manager provide the Applicant with a revised response that meets all the requirements of the ATIPP Act.

¹ Yukon IPC Decision on ATP12-031