



May 8, 2000

[*Applicant*]

Melissa Clarke
Vancouver Police Department
312 Main Street
Vancouver, BC V6A 2T2

Dear [*Applicant*] and Melissa Clarke:

Request for Review between the [*Applicant*] and the Vancouver Police Department (“VPD”) – OIPC File 9296

For the reasons that follow, I have found that there remains no matter under review in the above-mentioned inquiry. As a result, there is no matter for inquiry and disposition under ss. 56 and 58 of the *Freedom of Information and Protection of Privacy Act* (“Act”) and this letter is to bring formal closure to the matter.

On July 17, 1999, the applicant made an access request under the Act seeking a broad range of records from the VPD. The VPD referred the applicant, for the most part, to the British Columbia Police Commission, because the VPD considered the responsive records were not under its custody or control. The VPD responded only in respect of communications between the VPD and its legal counsel. It refused to disclose such communications on the basis they were excepted from disclosure by s. 14 of the Act, which permits a public body to refuse to disclose information that is subject to solicitor client privilege. On the same day, July 22, 1999, the applicant requested a review, under s. 52 of the Act, of the VPD’s decision. This Office issued a notice of inquiry under s. 56 of the Act. The inquiry was stated to be in respect of the VPD’s application of s. 14 to records held by it. The Inquiry date was, ultimately, set as December 17, 1999.

It is clear from the parties’ submissions in response to the notice of inquiry that:

- The wording of the applicant’s access request was, with all due respect, ambiguous and caused understandable confusion, which caused the VPD to treat the request as covering communications with its own lawyers. This caused the VPD to claim the protection of s. 14.
- In his request for review, the applicant stated that he “never asked the VPD for access to any records subject to solicitor client privilege” and said that his request clearly showed this.
- As soon as the VPD properly understood the applicant’s request in light of this clarification, it conducted a further search for responsive records and, on November 12, 1999, produced to the applicant 12 pages, from which it withheld no information. This is attested to by an affidavit sworn by Randall Smith, a VPD constable, that was filed by the VPD.

- The applicant raises other complaints – about having been referred by the VPD to the British Columbia Police Commission and about the VPD’s good faith in interpreting his access request – but these were not in the notice of inquiry and, in any event, I see no merit to the latter contention.
- The applicant’s request for review, and the notice of inquiry, were based upon the VPD’s application of s. 14 of the Act. This issue clearly was superseded by the VPD’s clarified interpretation of the applicant’s request and its subsequent disclosure, in full, of 12 pages of responsive records.

There being nothing for determination or disposition in relation to the applicant’s request for review and this office’s notice of inquiry, I am now formally closing this file. There is no need to complete the inquiry and no order under s. 58 of the Act is required and none will be issued.

Sincerely,

ORIGINAL SIGNED BY

David Loukidelis
Information and Privacy Commissioner
for British Columbia