courtready

Toronto (City) (Re), 2025 CanLII 44317 (ON IPC)

This decision forms part of Courtready.ca's Canadian Deepfake and Disputed Digital Evidence Database, which tracks Canadian court and tribunal decisions where the authenticity of a photo, video, audio recording or text message was disputed or decided. Inclusion in the database does not mean that any evidence in this decision was found to be fake. Courtready.ca obtained this decision from the Canadian Legal Information Institute (CanLII).

FULL DATABASE
https://courtready.ca/deepfake-evidence-in-canadian-courts/

Information and Privacy Commissioner,
Ontario, Canada

Commissaire à l'information et à la protection de la vie privée,
Ontario, Canada

2025 CanLII 44317 (ON IPC)

ORDER MO-4652

Appeal MA23-00594

City of Toronto

May 6, 2025

Summary: An individual made a request to the City of Toronto under the *Municipal Freedom of Information and Protection of Privacy Act* for access to original photographs from a red-light camera system. The city identified responsive records and granted the individual full access to them. The individual said that the city did not provide him with the original records he sought and said that additional records should still exist. In this order, the adjudicator upholds the city's search for responsive records as reasonable and dismisses the appeal.

Statutes Considered: *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, section 17.

OVERVIEW:

[1] The City of Toronto (the city) received a request under *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for information about the city's red-light camera program, including the following:

> …a duplicate soft copy of each original photograph pertaining to [a specified offence number] ('original photograph' meaning exactly as obtained from "a prescribed red light camera system" and "a prescribed red light camera system" only) via an e-mail message with a subject line of [a specified offence number] and stating "Each original photograph pertaining to [a

> specified offence number] is attached." and having each duplicate soft copy of each original photograph attached as the separate file which it is. Please refrain from trying to avoid this request by stating anything along the lines of 'the duplicate soft copies you are requesting should be acquired through York Region staff' and/or '[a specified offence number] relates to an occurrence in York Region and it is therefore inappropriate for the City of Toronto to become involved' and/or anything else involving any part of York Region as York Region staff have already made it clear that the original photographs pertaining to [a specified offence number] are in the hands of the City of Toronto facility where [a named individual] is an employee.

[2] The city issued a decision granting full access to the responsive records. The appellant was not satisfied with the city's decision and appealed it to the Information and Privacy Commissioner of Ontario (the IPC). The city issued a supplementary decision, granting access to the photographs in .JPG format, rather than in .PDF, which was the format of the photographs disclosed to the appellant with the original decision.

[3] During the IPC's mediation process, the appellant said he was pursuing access to the original photographs. He explained that he believed the photographs the city disclosed to him were not the originals. He also asked that the photographs be sent to him by email, accompanied by a specific statement.

[4] The city told the mediator that it had already disclosed the original photographs to the appellant and that no additional records existed. Further mediation was not possible, and the appeal was transferred to the adjudication stage of the appeals process where an adjudicator may conduct a written inquiry pursuant to the *Act.*

[5] An adjudicator commenced an inquiry into whether the city conducted a reasonable search for responsive records. Representations were obtained from the parties and then the matter was transferred to me to continue the inquiry. In this decision, I uphold the city's search for responsive records as reasonable and I dismiss the appeal.

DISCUSSION:

[6] The sole issue in this inquiry is whether the city conducted a reasonable search for records that were responsive to the appellant's request.

[7] If a requester claims that additional records exist beyond those found by the institution, the issue is whether the institution has conducted a reasonable search for records as required by section 17 of the *Act*.[1] If the IPC is satisfied that the search carried out was reasonable in the circumstances, it will uphold the institution's decision. Otherwise, it may order the institution to conduct another search for records.

[1] Orders P-85, P-221 and PO-1954-I.

2025 CanLII 44317 (ON IPC)

[8] Although a requester will rarely be in a position to indicate precisely which records the institution has not identified, they still must provide a reasonable basis for concluding that such records exist.[2]

[9] The *Act* does not require the institution to prove with certainty that further records do not exist.[3] However, the institution must provide enough evidence to show that it has made a reasonable effort to identify and locate responsive records;[4] that is, records that are "reasonably related" to the request.[5]

[10] A reasonable search is one in which an experienced employee knowledgeable in the subject matter of the request makes a reasonable effort to locate records that are reasonably related to the request.[6] The IPC will order a further search if the institution does not provide enough evidence to show that it has made a reasonable effort to identify and locate all of the responsive records within its custody or control.[7]

[11] If the requester failed to respond to the institution's attempts to clarify the access request, the IPC may decide that all steps taken by the institution to respond to the request were reasonable.[8]

The city's representations

[12] The city submits that it conducted a reasonable search for records and says the appeal should be dismissed. The city says that it contacted the appellant on multiple occasions to clarify the information he sought and denies that it unilaterally determined the scope of the appellant's request.

[13] The city says that it asked its Transportation Services Division staff to search for records responsive to the appellant's request. It says that it provided the appellant access to the responsive records it identified, but the appellant asserted that the photographs provided were not in their "original" format. As a result, the city says its Transportation Services Division staff conducted another search, following which it provided additional copies of photographs to the appellant through different avenues, including via secure file transfer and regular email. The city says it did this because the appellant asserted that the means of disclosure may have altered the content of the records.

[14] The city provided the following information for context regarding its red-light camera program:

---

[2] Order MO-2246.
[3] *Youbi-Misaac* v. *Information and Privacy Commissioner of Ontario*, 2024 ONSC 5049 at para 9, on the analogous requirement in the provincial equivalent of the *Act*.
[4] Orders P-624 and PO-2559.
[5] Order PO-2554.
[6] Orders M-909, PO-2469 and PO-2592.
[7] Order MO-2185.
[8] Order MO-2213.

2025 CanLII 44317 (ON IPC)

> The Red-Light camera only produces 2 photos of the incident. The first photo is taken when a vehicle is behind the white stop bar on the pavement, and about to enter the intersection when the traffic signal is red. The second photo is taken when the vehicle is within the intersection and the traffic signal is red. The 3rd photo included in the fine documentation is simply a zoomed-in image of the license plate. The camera does not continually take pictures, the camera is only activated when the above occurs – when the light is already red when the person is at the intersection.
>
> All 3 photos are mailed to the offender along with the fine documents by the *Ontario Court of Justice*. The City's Transportation Services staff merely review the photos, determine if a violation occurred based on the above; then send those photos to the province to verify, compile and issue the fine documents.

[15] The city submits that based on the above, it fails to see how there could possibly be any other responsive records. The city says it has not been provided with any evidence from the appellant that would establish a reasonable basis that further records could exist. The city says it simply reviews the photos and sends them to the province to verify and issue the ticket. Specifically, the city submits that unless the appellant ran more than one red light, it is impossible for additional records to exist for this infraction.

[16] The city further submits that based on several emails from the appellant, he is seeking information beyond what is available pursuant to a request under the *Act*. The city says the appellant appears to be questioning the validity of the photos and accusing Transportation Services Division staff of tampering with the photos. That city denies this is possible. The city argues that the issues put forth by the appellant are not appropriate for the freedom of information process and would be more appropriately dealt with by the Courts.

[17] The city provided an affidavit in support of its representations from a Project Manager in the red-light camera program, within the city's Transportation Services Division. The Project Manager says that based on his review of the operational records of the Transportation Services Division, and his knowledge as the Program Manager, he believes that the location searched was the location where the records responsive to this request could be expected to be located. He says that the responsive records were forwarded to the city's Access and Privacy Office. The Program Manager further states that after the records were provided, he was contacted by the Access and Privacy Office again requesting another copy of the photographs in their "original format", and not in .PDF. The Project Manager says a copy of the photographs in ".JPG format" was sent to the Access and Privacy Office.

[18] The Project Manager says that he was then contacted by the city's Access and Privacy Office again for a third time requesting a copy of the photos in .JPG format with the original file name. The Project Manager says that red-light camera photos are frequently requested by law enforcement and the courts and are relabeled for reference only. He says that the photographs are not changed in any way. The Project Manager

2025 CanLII 44317 (ON IPC)

says that a copy of the photos in .JPG format with the original labeling was then forwarded to the Access and Privacy Office.

[19] The Project Manager says that the city conducted a reasonable search for all the records that may be responsive to the appellant's request. He also attests that the records provided in each instance were a copy of the original photographs, as requested by the appellant.

The appellant's representations

[20] The appellant submits that the city has refused to fulfil his request for the "original photographs." He says that photographs he is seeking are those that were "exactly as obtained" from the red light camera system. He also seeks a statement from the city confirming exactly what has been provided to him.[9]

[21] The appellant argues that the city has not adequately responded to his request because it revised the scope of his request it to avoid fulfilling it properly and gave conflicting explanations and delayed responses. The appellant submits that the city was dishonest when it said that it does not create new records in response to access to information requests. He says the photographs the city provided in response to his request were, in fact, records it created in response to his request. He argues that the city avoided using the term "original" when referring to the photographs and instead refers to the "format" of the photographs. The appellant submits that he did not request the photographs in a specific format, he specifically requested the "originals."

[22] The appellant says that the Regional Municipality of York provides the city with raw images (or "original photographs") from red light cameras by removing the memory card, (sometimes) encrypting the data, and sending the raw images to the city. The appellant says that a contractor engaged in extracting raw images from a speed camera confirmed that the original photographs the city receives do not have information such as lane numbers, camera identifiers or the length of amber lights superimposed on them. As such, the appellant says that it is clear that additional records in original form do exist and it is these photographs that he is seeking.

[23] The appellant provided two examples of photographs showing a date and time. In one photograph the image is visible behind the text. The appellant submits that this version is likely an original. In contrast, he notes that in the other photograph the background of the date and time text is black and the image behind the text is not visible. The appellant says that this version cannot possibly be an original. The appellant says that when photographs are "re-labelled" in this manner they become a new record and are not the original.

[24] The appellant provided detailed background information about his communications

[9] The appellant submitted lengthy and detailed representations. I confirm that although I have reviewed and considered all the appellant's submissions, I refer only to those points that are most relevant to my decision in this order.

2025 CanLII 44317 (ON IPC)

with the city about his request, as well as information exchanged during the mediation process. He takes issue with the description of events provided in the Notice of Inquiry he received at the beginning of this inquiry process. In particular, he says that the Notice of Inquiry incorrectly stated that the city granted access to the photographs in .JPG format rather than .PDF. He says the Notice of Inquiry should have stated that the city granted access to "tampered items in JPEG format rather than tampered items in PDF." The appellant says that the focus should not be on the "format" the photographs are provided in, but rather whether they are indeed the original photographs. He also says that the city has refused to provide him with the statement he specifically requested with the photographs.

[25] Finally, the appellant says that the city's affidavit from the Project Manager is evidence that the photographs provided were not the originals because it specifically states that the photographs were "relabelled." Furthermore, the appellant says that the affidavit evidence provided proves that the Project Manager is either lacking in knowledge or lying because it is "impossible for any particular original photograph to exist in more than one format (let alone the fact that there is no red light camera system anywhere in the world which generates raw data, i.e., original photographs in PDF)."

[26] The appellant says that the city should conduct a further search and assign staff who "have the capability to stick to the subject matter of the request and refrain from evading the subject matter of the request while conducting the search."

Additional submissions

[27] The city was invited to reply to the appellant's representation. It stated only that it was not clear to the city how the appellant's representations indicate any unfairness or improper interpretation of the *Act.* The city said it maintains its decisions and reiterates its associated representations.

[28] A copy of the city's reply was provided to the appellant. In response, the appellant stated that the city's reply reinforces the fact that its employees lack knowledge and/or are not telling the truth. The appellant argues that city provided only tampered items rather than any actual records in response to his request and contravened the purpose of the *Act.*

Findings and analysis

[29] Below are my reasons for finding that the city has provided enough evidence to show that it has made reasonable efforts to identify and locate the records that are responsive to the appellant's request.

[30] Based on the evidence provided by the city, I accept that the Transportation Services Division staff were the appropriate employees to search for the responsive records. I also accept the affidavit evidence provided by the Program Manager for the right-light camera program about his experience and knowledge regarding that program and location of the photographs requested by the appellant.

2025 CanLII 44317 (ON IPC)

[31] In my view, the city took all reasonable steps to ensure that the appellant received copies of the records he sought in his request. The city identified the photographs and provided the appellant copies in .PDF version. When the appellant advised the city that he did not want .PDF copies, and instead sought the "originals," the city responded by providing copies of the photographs in .JPG version.

[32] I accept the Program Manager's evidence that he located copies of the .JPG photographs with the original file names and provided those to the city's Access and Privacy Office. The Project Manager attested that these are the photographs that are frequently requested by law enforcement and the courts and are relabeled for reference only. I accept his evidence that the photographs are not changed in any other way.

[33] The city says that its Transportation Services staff only review the photographs to determine whether an offence has been conducted and if so, they forward the photographs to the province to verify, compile and issue the fine documentation to the offender and the Ontario Court of Justice. Based on this evidence, I see no reason to believe that the copies of the photographs provided to the appellant would have been altered in any meaningful way.

[34] I do not accept the appellant's assertions that the city has "tampered" with the photographs, that it attempted to revise his request to avoid providing original copies, or that it otherwise acted dishonestly. The evidence before me is that the city took all reasonable steps to provide the appellant with the information he sought. I do not agree that the city's reference to the "format" of the photographs was an attempt to avoid providing copies of the originals. My view is that the city was attempting to respond to the appellant's request by providing him with copies in a way that was suitable to him. To be clear, I accept that the city has used its best efforts to identify the "original" version of the photographs sought by the appellant and provide copies to him.

[35] As quoted above, the appellant's request was that the city provide specific text in the email message subject line and/or a specific statement about the photographs it was providing to him in response to his request. I agree with the city that the appellant's request for it to provide a specific email subject line and/or statement about the photos is beyond the scope of what is required by the city under the *Act*. The city has located the responsive records and provided them to the appellant.

[36] In summary, while I understand that the appellant has doubts about whether the photographs provided to him were the "original" copies that he sought, he has not provided me with the reasonable basis needed to conclude that additional records should still exist. The city provided an explanation about how it identified the responsive records and the steps it took to ensure that the photographs provided were the same photographs the appellant sought. Based on the information provided by the city I am satisfied that it took all reasonable steps to locate the photographs sought and provide him with copies.

[37] To be clear, I accept the city's evidence that there are no other different photographs to provide to the appellant. The appellant has not convinced me that any additional photographs are likely to exist that would also be responsive to his request. As

2025 CanLII 44317 (ON IPC)

a result, I decline to order the city to search for any additional records.

ORDER:

I uphold the city's search for responsive records as reasonable and dismiss the appeal.

Original signed by: May 6, 2025
Meganne Cameron
Adjudicator

2025 CanLII 44317 (ON IPC)