

Information and Privacy Commissioner,  
Ontario, Canada



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

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## ORDER MO-3882

Appeal MA18-00856

York Regional Police Services Board

December 18, 2019

**Summary:** The appellant requested a correction on five general occurrence reports under section 36(2)(a) of the *Act* through the removal of any reference to his mental health status. The police issued a decision letter denying the request. This order upholds the decision.

**Statutes Considered:** *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, sections 291 (definition of "personal information"), and 36(2)(a).

**Orders and Investigation Reports Considered:** Orders MO-3609, MO-3720, and MO-3822.

### OVERVIEW:

[1] The York Regional Police Services Board (the police) received a request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for all reports containing the requester's name or all reports related to the requester.

[2] The police issued a decision granting partial access to the records responsive to the request. Once the requester received the police's decision and the records, he requested corrections to all but one of the responsive records under section 36(2)(a) of the *Act*.

[3] The police issued a decision denying the requested corrections. The police advised the requester of his right under section 36(2)(b) to require the police to attach a statement of disagreement to the records.

[4] The requester, now the appellant, appealed the police's decision.

[5] During mediation, the appellant advised the mediator that he had already submitted a statement of disagreement to the police but nevertheless wishes to pursue the correction of the responsive records.

[6] As further mediation was not possible, the appeal was moved to the adjudication stage, where an adjudicator may conduct an inquiry under the *Act*.

[7] During the inquiry, I sought and received representations from the police and the appellant. Pursuant to section 7 of this office's *Code of Procedure and Practice Direction Number 7*, a complete copy of the police's representations was shared with the appellant.

[8] In this order, I uphold the police's decision to deny the correction request, and dismiss the appeal.

## **RECORDS:**

[9] The appellant seeks to correct information in five general occurrence reports.

## **DISCUSSION:**

[10] The sole issue in this appeal is whether the police should correct personal information under section 36(2)(a) of the *Act*.

[11] Section 36(1) gives an individual a general right of access to his or her own personal information held by an institution. Section 36(2) gives the individual a right to ask the institution to correct the personal information. If the institution denies the correction request, the individual may require the institution to attach a statement of disagreement to the information.

[12] Sections 36(2)(a) and (b) state:

Every individual who is given access under subsection (1) to personal information is entitled to,

(a) request correction of the personal information where the individual believes there is an error or omission therein;

(b) require that a statement of disagreement be attached to the information reflecting any correction that was requested but not made;

[13] This office has previously established that in order for an institution to grant a request for correction, all three of the following requirements must be met:

1. the information at issue must be personal and private information; and
2. the information must be inexact, incomplete or ambiguous; and
3. the correction cannot be a substitution of opinion.<sup>1</sup>

[14] In each case, the appropriate method for correcting personal information should be determined by taking into account the nature of the record, the method indicated by the requester, if any, and the most practical and reasonable method in the circumstances.<sup>2</sup>

### **Representations**

[15] In their representations, the police refer to the three requirements that must be met before personal information will be corrected (set out above). The police agree that the information is personal information as it relates to the appellant's mental health status and, therefore, the first requirement is met. However, the police submit that the appellant does not meet the next two requirements; the information must be inexact, incomplete or ambiguous; and, the correction cannot be a substitution of opinion.

[16] The police submit that the statements and comments of the officers are not inexact, incomplete or ambiguous as they reflect the subjective perspective and views of the officers with respect to their interactions with and observations of the appellant and the situation.

[17] The police also submit that the information obtained from a third party in relation to the appellant being diagnosed with schizophrenia is a recording of information that the police obtained during an investigation. They submit that this information was collected during an investigation, and it reflects the views of an individual whose impressions are being set out.

[18] I have reviewed the appellant's representations and attachments. Subsequently, I received further representations via email<sup>3</sup> from the appellant. Although these further representations were unsolicited, I have reviewed them.

[19] In his representations, the appellant states that he has faced hatred, threats and harassment from a number of religious groups and political party members. He explains that he has made numerous complaints to the police over the years about the threats and harassment he faced due to his religion but the police do not accept his complaints. The appellant also explains that he has reported a number of potential terrorist attacks

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<sup>1</sup> Orders P-186 and P-382.

<sup>2</sup> Orders P-448, MO-2250 and PO-2549.

<sup>3</sup> The emails are dated September 2, 3 and 4, 2019.

in India and Canada to the police but they do not believe him. He further states that the police take the position that he has mental health issues to cover up their non-action.

[20] Moreover, the appellant states that his request for corrections should be allowed as he is not delusional, paranoid or schizophrenic. He believes, in the citizen assist call incident, the police officer fabricated the report when the police officer described him as having schizophrenia.

### **Findings and analysis**

[21] As noted above, in order to qualify for a correction, all three of the following requirements must be met:

1. the information at issue must be personal and private information; and
2. the information must be inexact, incomplete or ambiguous; and
3. the correction cannot be a substitution of opinion.<sup>4</sup>

[22] After reviewing the records at issue and the representations of the parties, I find that the first requirement of the test has been met, and the information at issue is the personal and private information of the appellant. This information includes his mental health status and the views and opinions of others about him, which fall within paragraphs (b), (e) and (g) of the definition of "personal information" in section 2(1) of the *Act*. Having found that the first requirement of the test has been met, I now turn to the second and third requirements.

[23] As noted above, section 36(2)(a) will not apply if the information consists of an opinion.

[24] I accept the police's submission that their reference in the records to the appellant's mental health status or the third party's reference to the appellant having a mental illness accurately reflects the views of the officers or the third party who observed the appellant's behaviour during these incidents.

[25] Records of an investigatory nature, such as the general occurrence reports at issue, cannot be said to be "incorrect" or "in error" or "incomplete" if they simply reflect the views of the individual whose impressions are being set out. It is not the truth of the recorded information that is determinative of whether a correction request should be granted, but rather, whether or not what is recorded accurately reflects the author's observations and impressions at the time the record was created.<sup>5</sup> I am satisfied, after

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<sup>4</sup> Orders P-186 and P-382.

<sup>5</sup> Orders M-777, MO-1438 and PO-2549.

reviewing the records at issue, that the officers who recorded the information relating to the appellant's mental health status recorded that information based on their own observations and impressions or the third party's observations and impressions at the time they created the general occurrence reports. Therefore, the records reflect the views of the officers or the third party and cannot be said to be incorrect, in error or incomplete.

[26] I note that the appellant has filed a statement of disagreement under section 36(2)(b) of the *Act* reflecting any correction that was requested but not made. I also note that, in their representations, the police state that his statement of disagreement has been attached to "one or more" of the complaints on file with them.<sup>6</sup> The police also state that they have not disclosed any personal information about the appellant to any person or body to whom the personal information has been disclosed within the year before the statement of disagreement was required.

[27] Furthermore, based on the interpretation of section 36(2)(a) developed in the orders cited above, I am not persuaded that the police have exercised their discretion inappropriately in refusing to correct the records at issue. Therefore, I uphold the decision of the police not to correct the personal information under section 36(2)(a) of the *Act*.

**ORDER:**

I uphold the police's decision to deny the correction request, and dismiss the appeal.

Original signed by: \_\_\_\_\_  
Lan An  
Adjudicator

December 18, 2019 \_\_\_\_\_

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<sup>6</sup> The police refer to attaching the statement of disagreement to "one or more" records. The appellant has requested correction to five general occurrence reports and has submitted a statement of disagreement which it appears apply to all of them. Although the manner in which the police have treated the statement of disagreement is not before me, I presume the police have attached his statement of disagreement to each of the five occurrence reports.