

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER MO-4527

Appeal MA23-00550

Peel Regional Police Services Board

May 29, 2024

Summary: The appellant requested correction of his personal information – the removal of his name from an occurrence details report about an incident involving him. The police denied the correction request because it did not meet the requirements for the police to grant it; the appellant's name had to remain in the report because he was the individual who had contacted the police. The police advised the appellant that he could require that a statement of disagreement be attached to the report in accordance with section 36(2)(b) of the *Act*.

The adjudicator exercises her discretion under section 41(1) of the *Act* not to conduct an inquiry to review the police's decision because an inquiry is not warranted. The police have responded adequately to the correction request, and they are not required to grant it. The appeal is dismissed.

Statutes Considered: *Municipal Freedom of Information and Protection of Privacy Act*, 1990, c. M.5, sections 36(2)(a), 36(2)(b) and 41(1).

OVERVIEW:

[1] This no inquiry order addresses an appeal filed with the Information and Privacy Commissioner of Ontario (the IPC), under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*), by an individual whose request for correction of police records involving him was denied by the police.

The correction request and the police's decision to deny it

[2] The appellant submitted a correction request to the police seeking the correction of his personal information in an occurrence details report; specifically, the removal of his name from the report. The police issued a decision denying the appellant's correction request. In their correction decision, the police stated that the appellant's correction request could not be granted because, as the appellant was the one who contacted the police, he must remain a named individual in the report. The police also advised the appellant that he had the right, under section 36(2)(b) of the *Act*, to require them to attach his correction request as a statement of disagreement to the record.

The appeal

[3] The appellant was dissatisfied with the police's decision and appealed it to the IPC. The IPC attempted to mediate the appeal, but a mediated resolution was not possible. The appeal was then moved to the adjudication stage of the appeal process, in which an adjudicator may conduct an inquiry.

[4] As the adjudicator, I have the discretion under section 41(1) of the *Act* to conduct – or not to conduct – an inquiry to review the police's decision. I reviewed the materials in the appeal file, and I considered the requested corrections, the circumstances of the appeal and the correction provisions of the *Act* at section 36(2), which state:

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

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

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

(c) require that any person or body to whom the personal information has been disclosed within the year before the time a correction is requested or a statement of disagreement is required to be notified of the correction or statement of disagreement.

Preliminary assessment not to conduct an inquiry

[5] I formed a preliminary view that the appeal did not warrant an inquiry under the *Act* because no purpose would be served by an inquiry. I sent a letter to the appellant advising him of my preliminary assessment that the appeal should not proceed to an inquiry because the correction requested did not meet the requirements for the police to grant it and because there is no statutory basis for his request that the police remove his name from the occurrence details report.

[6] In my letter, I explained the three requirements that must be met before the police or, on appeal, the IPC can grant a request for correction. These are:

1. The information must be the requester's personal information,
2. The information must be "inexact, incomplete or ambiguous," and
3. The correction cannot be a substitution of opinion – that is it cannot simply replace one person's opinion with another person's opinion that the appellant prefers.

[7] I advised the appellant of my preliminary assessment that: only the first of the three requirements has been met in this appeal – the information at issue is his personal information; he has not established that the information he seeks to have corrected is inexact, incomplete or ambiguous, and the second requirement is not met; the police properly denied the correction he seeks in this appeal and, accordingly, it is my view that the appeal should not proceed to an inquiry.

[8] I explained to the appellant my authority under section 41(1) of the *Act* to exercise my discretion not to conduct an inquiry. I referred the appellant to two recent IPC orders in which I declined to conduct an inquiry in an appeal of a request to correct police records: Orders MO-4385 and MO-4386. I invited the appellant to provide representations in response to my preliminary assessment letter if he disagreed with it. The appellant provided representations, which I address below.

Should the appeal proceed to an inquiry under the *Act*?

[9] Section 41(1) of the *Act* sets out the IPC's authority to conduct – or not to conduct – an inquiry and states, "The Commissioner may conduct an inquiry to review the head's decision[.]" For the reasons that follow, I exercise my discretion not to conduct an inquiry in this appeal.

[10] In his representations to me, the appellant does not directly address the correction provisions in section 36(2) of the *Act* or the three requirements for correction that I set out in my letter. Nor does he address my authority under section 41(1) of the *Act*. Rather, the appellant's representations appear to be complaints and allegations against other entities and how they have treated him and his family. These other entities are not parties to this appeal, and the appellant's allegations about them are not issues before me. The appellant's representations include images of documents relating to court and other proceedings involving the appellant, none of which are directly relevant to the issues in this appeal.

[11] The appellant does not provide evidence that he was not the party who contacted the police or that the inclusion of his name is "inexact, incomplete or ambiguous." The police report at issue is an investigatory record that accurately reflects the police's observations at the time of the incident in question and cannot be said to be erroneous within the meaning of section 36(2)(a) of the *Act*. The appellant's request that his name

be removed from the report even though the police confirmed that he was the one who contacted them and is, thus, accurately named in the report, cannot be granted under the *Act*. As a result, I conclude that an inquiry is not warranted in this appeal.

[12] As noted above, the police have advised the appellant of his right to require them to file a statement of disagreement with the records at issue in accordance with section 36(2)(b) of the *Act*. In my view, the police have responded adequately to the appellant's correction request by advising him why they denied his request and of his right to file a statement of disagreement.

NO INQUIRY:

For the foregoing reasons, no inquiry of this matter will be conducted under the *Act*.

Original signed by: _____
Stella Ball
Adjudicator

_____ May 29, 2024