

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER MO-4597

Appeal MA21-00194

Ottawa Police Service

November 22, 2024

Summary: The Ottawa Police Service denied a request to correct personal information in a police occurrence report. The adjudicator finds that the three-part test for correction in section 36(2) of the *Municipal Freedom of Information and Protection of Privacy Act* is not met and upholds the police's decision.

Statutes Considered: *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, sections 36(1) and 36(2).

Orders Considered: Orders MO-4279.

OVERVIEW:

[1] This order deals with a request to correct a police occurrence report that was disclosed to the appellant in response to an access request.

[2] The appellant made a request to the Ottawa Police Service (the police) for access under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) to a police report and numerous other records¹ relating to herself and her two minor children.

[3] The police located a responsive record and issued a decision granting partial

¹ The appellant also sought access to written notes, electronic and sound recordings, interview notes, internal notes, emails, investigation notes and records, polygraph records and test results, and "dockets, etc."

access. The police denied access to portions of the record that they claimed were exempt under a discretionary law enforcement exemption,² and the mandatory and discretionary personal privacy exemptions in sections 14(1) and 38(b), respectively.

[4] The appellant appealed the police's decision to the Information and Privacy Commissioner of Ontario. The parties participated in mediation.

[5] During mediation, the police searched for, located, and disclosed more records to the appellant.³ Also during mediation, the police's law enforcement and personal privacy exemption claims were removed as issues in the appeal.

[6] Instead, by the conclusion of the mediation, the appellant took the position that the occurrence report to which she was granted partial access required correction.

[7] The police denied the appellant's correction request. They issued a decision stating that they could not "remove or amend a report submitted by a Police Officer and a substitution of opinion will not qualify as a correction of our files."

[8] The police attached a statement of disagreement prepared by the appellant to the record. Despite this, the appellant maintained that the record should be corrected. With no further mediation possible, the appeal was moved to the adjudication stage of the appeal process on the sole question of whether the occurrence report should be corrected.

RECORD:

[9] The record is a 339-page⁴ police occurrence report (the record, report or occurrence report).

DISCUSSION:

[10] The only issue in this appeal is whether the police should correct the appellant's and her minor children's personal information in the record under section 36(2) of the *Act*.

[11] Section 36(1) of the *Act* gives individuals a general right of access to their own personal information that an institution holds. Section 36(2) gives the individual a right to ask the institution to correct that personal information. If the institution denies the correction request, the individual may require the institution to attach a statement of

² In section 8(1)(l) (endanger security of a building, vehicle or system).

³ Video interviews and other information. The latter was disclosed after obtaining consent from an affected party.

⁴ Inclusive of cover page and table of contents.

disagreement to the information. Sections 36(2)(a) and (b) state that:

Every individual who is given access under section (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[.]

[12] Prior IPC orders have established that, for an institution to grant a request for correction, the following three requirements must be met:

- i. the information at issue must be personal and private information;
- ii. the information must be inexact, incomplete or ambiguous; and,
- iii. the information cannot be a substitute of opinion.⁵

[13] In each case, the appropriate method for correcting personal information should be determined by considering the nature of the record, the method indicated by the requester, if any, and the most practical and reasonable method in the circumstances.⁶

[14] The right of correction applies only to a requester's personal information.⁷

Representations

The police's representations

[15] The police say that the appellant initially submitted a 37-page, 136-item correction request that she later asked to be included in the record as a statement of disagreement. The police submit that they added this document to the occurrence report, along with a later document with corrections the appellant provided.

[16] The police agree that the record, which they say documents police interactions with the appellant, contains both her personal information alone and mixed with that of other individuals.

[17] The police say that the record's sole purpose is an investigation into a possible violation of law. Citing Order MO-4279, the police argue that the record cannot be said to be inexact, incomplete or ambiguous where it merely reflects the views of the

⁵ Orders 186 and P-382.

⁶ Orders P-448, MO-2250 and PO-2549.

⁷ Order P-11. In this case, the appellant also seeks correction to the personal information of her minor children, of whom she has custody.

individuals whose impressions are contained in the record and is purely investigatory in nature.

[18] The police argue that the appellant's correction request is a compilation of her personal views and opinions on the investigative process, the drafting of the report, the overall competency of the investigators, and alleges that (1) the report lacks punctuation, overuses pronouns without clarifying specific individuals, and contains significant grammatical and spelling errors which the appellant says impair a reader's understanding of timelines and incidents; and (2) that interviewers made inappropriate comments and exhibited personal bias that compromised their objectivity.

[19] The police argue that a chart of errors included with the appellant's request⁸ outlines her objections to nearly all aspects of the occurrence report, including its writing quality, the investigators' competence, word choices, grammar, and what the appellant claims are multiple errors of fact. They maintain that the appellant's correction request does not meet all three criteria for granting such a request.

The appellant's representations

[20] I will only provide a broad overview of the appellant's representations, focusing on the appellant's main claims rather than specific details. This includes details of the requested corrections, which contain particulars of the appellant's and her children's evidence. I have opted for a broad summary approach because of the sensitive nature of the matter investigated, and the particularly sensitive allegations, including those relating to the children and described in medical records and other documents submitted by the appellant with her representations.

[21] The appellant seeks numerous amendments to the occurrence report, claiming that it contains factual inaccuracies, omissions, an inappropriate reference to a past allegation, and distortions that misrepresent and minimize the allegations investigated. She argues that certain supporting documents – including medical records, a report and affidavit from a psychologist whom she says the police did not interview, a cyber audit report and photographs with metadata⁹ – be appended to the record to substantiate the appellant's account and provide what she believes is missing but critical context.

[22] The appellant obtained certified transcripts of police interviews that are summarized in the report. She argues that the certified transcripts must also be added to the report to correct what she describes as misleading summaries of her statements and those of her children, and which she claims undermine the credibility of their allegations.

[23] Additionally, the appellant submits that the report is replete with spelling, grammatical, and factual errors – such as what she says are inaccuracies in dates and

⁸ The appellant's "Chart of Errors and Corrections."

⁹ The appellant requests the inclusion of a third-party report that contains photographs and metadata, or, alternatively, that the original electronic files be attached with metadata intact.

material facts – that render it incomprehensible and unreliable. She contends that the unnecessary use of pronouns and associated salutations (i.e., “Mr. or Mrs.”) is discriminatory, and that poor grammar and awkward sentence structure create potential for misinterpretation, particularly around dates. She submits that the cumulative effect of these errors and omissions is that readers are prevented from accurately understanding the facts. She argues that those errors which distort the circumstances described in the report, misstate legal principles or diminish the credibility of her claims are factual inaccuracies rather than opinions. She says that the report should be corrected to reflect the information provided by victims and witnesses, and not serve as what she calls an “Op-Ed” piece that favours the police’s opinions over facts.

[24] The appellant maintains that, in distorting, misrepresenting and downplaying allegations she and her children made, the occurrence report results in or attempts to create a biased outcome. She submits that these errors negatively affect third-party interpretations. Noting that the occurrence report is part of a family law matter before the Superior Court of Justice, she expresses concern that third parties may not consider her additional materials unless they are formally appended to the report.

[25] To remedy these perceived deficiencies, the appellant requests an order mandating the addition of the five certified interview transcripts, her statement of disagreement and the chart of errors to the occurrence report, specifying their placement at the front to ensure they are not overlooked, given the length of the report and number of medical records appended to it.¹⁰ The appellant says that each page of the report should also be marked with a watermark that both informs readers of alleged inaccuracies and cautions that the report must be read in conjunction with the appended documents.

[26] The appellant also seeks line-by-line corrections to certain portions of the records, including to dates of her recollections of certain events, additional dates and events not summarized in the report, and to descriptions of evidence. She provides replacement versions of the police’s summaries of certain evidence and witness statements, claiming that, in their current form, they diminish the seriousness of the experiences they document, and represent a biased interpretation that prefers the police’s perspective over that of victims. The appellant identifies portions of the report she submits must be struck entirely.

[27] The appellant also asks for a directive that any person or institution that obtained the report in the past year receive a revised version containing these additions, and that future copies disclosed through FOI requests include all of the additional documents described by the appellant.¹¹

¹⁰ In her representations, the appellant sets out the exact placement of specific additional information throughout the report, but also asks that it be placed at the front to avoid it being overlooked. Either scenario requires the addition of transcripts and other documents to the occurrence report.

¹¹ The statement of disagreement and the appellant’s chart of errors have already been appended to the occurrence report.

Analysis and findings

[28] As noted above, past IPC orders have found that, in order for the right of correction under section 36(2) to arise, the person seeking the correction must meet all three parts of a three-part test.¹² First, the information must be personal information; second, the information must be inexact, incomplete or ambiguous; and third, the correction cannot be a substitute of opinion.

Part 1: information must be personal information

[29] There is no dispute that the record contains the appellant's and her minor children's personal information. After reviewing the record and the parties' representations, I find that the first requirement is met because the information the appellant seeks to correct is recorded information about her and her children contained in summaries of their interviews with the police. This includes information relating to medical or psychological history, views and opinions, and other details which, if disclosed, would reveal things of a personal nature about them, including the nature of their involvement in a police investigation. I find that this is their personal information within the meaning of the definition of "personal information" in paragraphs (b), (e), (g) and (h) of section 2(1).

Part 2: information must be inexact, incomplete or ambiguous

[30] For there to be an error or omission in the personal information within the meaning of section 36(2)(a), the personal information must be inexact, incomplete or ambiguous. Section 36(2)(a) does not provide a basis for correction if the information sought to be corrected is someone's opinion.

[31] Past IPC orders, including Order MO-4279 on which the police rely, have held that records of an investigative nature, such as occurrence reports, cannot be said to be inexact, incomplete or ambiguous if they simply reflect the views of the individual whose impressions are being set out. In other words, 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.¹³

[32] I accept that the occurrence report is properly described as an investigative record, as it relates to a complaint to the police of criminal wrongdoing. I am satisfied that the investigating officers compiled the report based on their own observations at the time they collected the information recorded in it. The report necessarily contains the investigating officers' summaries of the information they collected, and sets out their observations, opinions and conclusions. I therefore find that it is not inexact, incomplete

¹² See, for example, Orders 186, MO-3004 and P-382.

¹³ Orders M-777, MO-1438 and PO-2349.

or ambiguous for the purposes of the second part of the test.

[33] The appellant has also challenged the quality of the report's language and accuracy of its grammar. She seeks to correct portions of the record through deletions and substitutions of the officers' text in favour of her own because she believes that, among other things, bad grammar renders them ambiguous and vulnerable to misinterpretation.

[34] Even if I were to find that the language is so imprecise or unclear that it can be found to be inexact or ambiguous – and I make no finding that it is – I nevertheless find that the test for correction under section 36(2) has not been met because the third requirement for correction, considered below, is not satisfied.

Part 3: correction must not be a substitution for opinion

[35] For the following reasons, I find that the third requirement for correction is not met. I find that the correction request challenges the precision of the police's summaries of evidence and seeks substantive modifications to the investigation record, by removing portions, substituting officers' language, and rewriting or substituting descriptions in the record with accounts the appellant submits more accurately reflect her perspective and that would better inform third party readers.

[36] IPC orders have consistently held that section 36(2) of the *Act* cannot be used to substitute one individual's perspective for that of investigating officers, including replacing one person's opinion with another more favourable to the appellant.

[37] I agree with the police's submission that the appellant's correction request effectively amounts to a request to substitute portions of the officers' summaries with the appellant's own interpretation of witness interviews and information gathered by the officers. In my view, the appellant's proposals and relief sought constitute significant alterations to the existing record, as they aim to fundamentally alter its structure, contents and interpretation of evidence to align with the appellant's views of both the matter under investigation and what she and her children told the police. For example, the appellant proposes to replace portions of officers' summaries of what a witness says with what the appellant submits they meant.

[38] Additionally, the appellant's proposed changes involve adding new contextual information (including additional intervening dates between those summarized by the police) and allegations that she believes were not documented or were "downplayed" in the original report. However, the report serves as a summary of the investigation, capturing the officers' observations and summaries, not verbatim witness accounts. The report itself notes that it does not contain verbatim accounts and that summaries may involve paraphrasing.

[39] Even where the appellant disputes the accuracy of a specific date (for instance, asserting that the date she became aware of an allegation is off by one day), this remains a question of her account versus that of the police and presents an alternate version of

her evidence. In my view, by providing additional details, dates or clarification of dates, and events not recorded in the original occurrence report, the appellant is offering alternate summaries to replace those prepared by the police.

[40] The provisions for correction in the *Act* do not extend to changing substantive content and replacing it with an alternate version. Section 36(2) does not provide a means for the appellant to adjust how information is interpreted or summarized by the police. Similarly, adding details not initially recorded by the police is tantamount, in my view, to altering the record substantively and is not contemplated by the *Act*. The appellant's request to include additional records, such as a report by a witness the appellant says was not interviewed, is asking the police to incorporate materials that were not part of the original occurrence report, and to alter it where section 36(2) only permits corrections to a requester's personal information contained in existing records (that is, those at issue to which correction is sought).

[41] The *Act* also does not give the IPC jurisdiction to mandate the specific contents of a record, in this case, an occurrence report, to direct the police to edit it by adding to it, or by replacing investigative summaries or observations with the appellant's proposed, re-framed or enhanced version. Similarly, the IPC is not the appropriate forum to challenge the adequacy of the police's investigation, its outcome, or the competence of the investigating officers.

[42] The police advised the appellant of her right under section 36(2)(b) to require them to attach a statement of disagreement to the report reflecting any corrections the appellant requested, but that the police did not make. As noted above, the appellant prepared a statement of disagreement and chart of errors that the police attached to the record. This remedy signals that there is a reasonable difference of opinion between an institution and a requester about a record's accuracy. It alerts future readers to the dispute and allows them to consider it when evaluating the record's reliability.¹⁴

[43] Further, under section 36(2)(c), the appellant is entitled to require the police to give notice of the statement of disagreement to 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.

[44] In the circumstances, I find that the police responded adequately to the appellant's correction request. I find that the test for correction under section 36(2) is not met. I uphold the police's decision to deny the appellant's correction request and I dismiss this appeal.

¹⁴ Order P-1881-I.

ORDER:

The appeal is dismissed.

Original Signed by: _____
Jessica Kowalski
Adjudicator

_____ November 22, 2024