



**Information and Privacy
Commissioner/Ontario**
**Commissaire à l'information
et à la protection de la vie privée/Ontario**

ORDER M-1035

Appeal M-9700180

Halton Regional Police Services Board



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NATURE OF THE APPEAL:

The Halton Regional Police Services Board (the Police) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for correction of personal information relating to the requester. The request referred to a "Security Clearance Request" form (the clearance) which the Police provided to the requester. She asked that a four-line reference on the clearance be removed. The reference pertains to events which occurred at a hospital where the requester was a patient. It states that the requester was suspected of making harassing telephone calls to another patient at the hospital. The requester also provided a statement of disagreement, asking that it be attached to the clearance.

The Police denied the correction request. In its decision letter, the Police indicated that the information at issue was obtained from an occurrence report, and that their policy is to record any suspect information from their files over the past five years on all clearances. The Police agreed to attach the requester's statement of disagreement to both the clearance and the occurrence report.

The requester (now the appellant) appealed the decision of the Police to deny her request to correct the clearance. She also expressed concern that the contents of the occurrence report was inaccurate, but did not include this record within the scope of her appeal.

A Notice of Inquiry was sent to the Police and the appellant. The Notice invited the parties to submit representations on the following issues:

- (1) whether the clearance contains the appellant's personal information;
- (2) whether any personal information in the clearance should be corrected under section 36(2)(a) of the Act; and
- (3) if the information should be corrected, whether removing the four-line reference contained in the clearance is an appropriate method.

Representations were received from both parties.

DISCUSSION:

PERSONAL INFORMATION

Section 2(1) of the Act provides, in part, that "personal information" means recorded information about an identifiable individual.

The clearance includes the appellant's name, address, sex, race, height, weight, hair and eye colour, medical and psychological history, and the fact that she was a suspect in a harassment investigation. Both parties submit this constitutes the appellant's personal information, and I agree.

CORRECTION OF PERSONAL INFORMATION

Sections 36(2)(a) and (b) of the Act 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.

There is a significant difference in the wording of sections 36(2)(a) and (b). Section 36(2)(a) provides that individuals may **request** correction of their personal information, while section 36(2)(b) states that individuals may **require** a statement of disagreement to be attached to a record. In my view, section 36(2)(a) gives the Police a discretionary power to accept or reject a correction request. Section 36(2)(b), on the other hand, compensates for this discretion by allowing individuals who do not receive favourable responses to correction requests to **require** that a statement of disagreement be attached instead.

The appellant states that she would never do anything to harm the person who had received the harassing telephone calls, and points to aspects of her background, interests and activities that she feels support her position. She submits that if the reference remains on the clearance it might prejudice her ability to obtain employment in her field, and feels that it would be unfair for her to have to explain the notation, especially since she was not involved in the harassment incident.

In Order 186, former Commissioner Tom Wright set out the following requirements for a successful correction request:

- 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.

There is no dispute that the first requirement has been satisfied.

The clearance contains information taken directly from the occurrence report. It reflects the investigating officer's reasons for believing that the appellant was a suspect in the harassment investigation, based on his conversations with the appellant and other information gathered during the investigation. There is nothing to suggest that the information is inaccurate; in fact, the occurrence report clearly states that the investigating

officer believes the appellant made the phone calls and should be considered a suspect. Having reviewed the records, in my view, the information contained on the clearance is neither inexact, incomplete nor ambiguous. Therefore, I find that the second requirement has not been established.

I also find that the third requirement has not been met. The investigating officer is of the opinion that the appellant is a suspect, and this opinion is reflected in both the occurrence report and the clearance. Although the appellant disagrees, she is in effect asking that her opinion be substituted for that of the investigating officer, which is precluded by the third requirement outlined above.

Accordingly, I must uphold the decision of the Police to refuse the appellant's correction request.

The Police have indicated that the appellant's statement of disagreement would be attached to both the clearance and the occurrence report. I am satisfied that this is a proper discharge of the duty of the Police under section 36(2)(b) of the Act in circumstances where the correction request under section 36(2)(a) has been denied.

In addition, I would like to make reference to the obligation contained in section 36(2)(c) of the Act requiring, in this case, the Police to notify others of the existence and content of the appellant's statement of disagreement. Section 36(2)(c) of the Act states:

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

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 be notified of the correction or statement of disagreement.

ORDER:

I uphold the decision of the Police to deny the appellant's correction request.

Original signed by: _____
Ann Cavoukian, Ph.D.
Interim Commissioner

November 18, 1997