



**Information and Privacy  
Commissioner/Ontario**

**Commissaire à l'information  
et à la protection de la vie privée/Ontario**

# **ORDER MO-1515**

**Appeal MA-010178-1**

**London Police Services Board**



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## **NATURE OF THE APPEAL:**

The London Police Services Board (the Police) received a request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for correction of the requester's personal information. Specifically, the requester asked that the reference to "mentally unstable", referring to himself, which is found in various computerized Police records, be deleted.

The requester also asked to be informed of the origin of the reference to "mentally unstable". The requester submitted to the Police a statement of disagreement with respect to this designation under section 36(2)(b) of the *Act*. The Police attached his statement of disagreement to their files. However, the Police denied his request to delete the reference to "mentally unstable" from their records. The Police also responded to the requester's question as to the origin of the designation.

The requester, now the appellant, appealed the decision of the Police regarding the correction of his personal information and their response regarding the origin of the reference to the appellant's mental stability.

During the mediation stage of the appeal, the appellant confirmed that he wants the reference "mentally unstable" removed from the computerized records of the Police under section 36(2)(a) of the *Act*. Also during mediation, the Police provided the appellant with an explanation as to how and why the designation complained of found its way into their computerized record-holdings. In my view, this issue was resolved in mediation. Accordingly, I addressed only the correction issue in the Notice of Inquiry initially provided to the appellant. The Police were then asked to comment on this issue as well. I received representations from the Police and provided the appellant with a copy of them. Additional reply representations were then submitted by the appellant.

## **DISCUSSION:**

The sole issue in this appeal is whether the appellant is entitled to request that the London Police database be corrected under section 36(2) by deleting the reference to his alleged mental instability which is contained therein.

Section 36(2) of the *Act* provides as follows:

- (2) 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;

In Order 186, Commissioner Tom Wright set out the requirements necessary for granting a request for correction as follows:

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.

In order to exercise the right of correction conferred by section 36(2), the person seeking the correction must demonstrate that the personal information at issue contains an error or an omission or that it is inexact, incomplete or ambiguous. [Order P-382]

### **The Representations of the Police**

The Police agree that the records for which the appellant seeks correction contain his personal information but deny that this information is inexact, incomplete or ambiguous. They indicate that:

. . . the decision of the London Police to deny deleting the “caution flag” of *Mentally Unstable* is evident by the supporting records. The “caution flag” (a term used for lack of a better one) is based on police officers’ observations, including notes and occurrence reports submitted, relating to the appellant during legitimate police involvement/investigations.

The Police then make specific reference to the contents of a number of occurrence reports, police officer notes, trial transcripts, court orders and other records which substantiate its conclusion that the appellant is, in fact, mentally unstable. Some of these documents also make reference to the appellant’s on-going mental health problems. The Police add that:

Such “caution flags” are not only used for the protection/safety of police officers, other citizens and the subject individual him/herself, but can provide the officer with some quick insight, which may assist and, at times, afford the officer a better understanding of the individual when dealing with him or her. The alternative is the officer reads each individual report on the subject before approaching the individual, an alternative that is in most cases not practicable.

. . .

The Police must be able to maintain legitimate records based, not only on fact, but also opinion that is based on common sense. The Police cannot be restrained when it comes to police and public safety issues. The Police must be afforded latitude in these issues.

### **The Appellant’s Representations**

The appellant has made lengthy submissions in response to the initial Notice of Inquiry which I provided to him and in his reply to the representations of the Police. Included in his material is a letter from his current physician indicating that the doctor does not view the appellant as being

“mentally unstable”. Much of the material submitted by the appellant, however, and a review of the information provided to me by the Police, lead me to a very different conclusion.

It is quite clear from the evidence tendered by the appellant that he suffers from “recurrent episodes of depression and rare hypomanic episodes” and that he has been diagnosed by a psychiatrist with the Mood Disorders Unit of the St. Joseph’s Regional Mental Health Care Centre in London as suffering from a “bipolar II disorder”.

### **Findings**

Based on my review of the material presented by both the Police and the appellant, I am of the view that the information which is the subject of the request for correction under section 36(2)(a) is the personal information of the appellant as that term is defined in section 2(1)(b) of the *Act*. The information relates to the medical, psychiatric and psychological history of the appellant and clearly falls within the definition of the term “personal information”.

I do not accept the appellant’s contention that the reference to him being “mentally unstable” is in some way inexact, incomplete or ambiguous. On the contrary, the evidence which he himself provided to me clearly points to this conclusion. The evidence tendered by the Police demonstrates a lengthy history of obsessive, controlling, harassing behaviours by the appellant, particularly with regard to certain matrimonial proceedings in which he has been involved. I find especially compelling certain evidence of improper and inappropriate communications originating with the appellant and directed towards a member of the judiciary. The Police also relied upon the opinions of various mental health professionals who provided assessments of the appellant during the course of his matrimonial proceedings. In my view, the Police have provided me with ample evidence to substantiate its view that the “caution flag” attached to the appellant’s personal information in its database is warranted and entirely appropriate.

In conclusion, I find that the personal information which the appellant seeks to have corrected is not in error; nor is it inexact, incomplete or ambiguous. On this basis, I find that he is not entitled under section 36(2)(a) to have the designation of “mentally unstable” corrected and the Police are not obliged to amend its record-holdings in the manner sought by the appellant.

### **ORDER:**

I dismiss the appeal.

Original Signed By: \_\_\_\_\_  
Donald Hale  
Adjudicator

February 20, 2002 \_\_\_\_\_