

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-2689

Appeal MA10-251-2

Algoma Public Health

January 19, 2012

**Summary:** The appellant requested information regarding the inspections completed by public health inspectors in 2008 and 2009, specifically information about how many inspections were completed by individual inspectors, along with information about how many inspections were supposed to take place. Algoma Public Health claims that disclosure of the information at issue would constitute an unjustified invasion of personal privacy under section 14(1). The records are found not to contain the personal information of the public health inspectors and are ordered disclosed.

**Statutes Considered:** *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, ss.2(1) definition of "personal information".

### OVERVIEW:

[1] The appellant filed two separate multi-part requests under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) to Algoma Public Health (public health unit or APH).

[2] The public health unit located the responsive records and issued an access decision and fee estimate. The appellant appealed the public health unit's decisions to this office and a mediator was assigned to the appeal.

[3] During mediation, most of the issues in dispute were resolved and the appellant narrowed the scope of his request. In response, the public health unit issued a revised

decision, granting access to the inspections completed for 2008 and 2009, organized by the municipal area. The appellant advised the mediator that he expected the inspection information would be organized by each inspector's area of responsibility. As a result, the appellant indicated that he was not satisfied with the information disclosed.

[4] As a result of mediation, the only records remaining in dispute are Completion Rate Reports for 2008 and 2009, organized by the named inspector's area. In its third decision letter to the appellant, the public health unit submits that disclosure of the records at issue constitute the named inspector's employment history and thus disclosure would constitute an unjustified invasion of personal privacy under section 14(1) of the *Act*.

[5] The issues remaining in dispute at the end of mediation were transferred to the adjudication stage of the appeals process, in which an adjudicator conducts an inquiry under the *Act*. I commenced my inquiry by sending a Notice of Inquiry to the public health unit and seeking their representations. The public health unit provided brief representations in response, which were summarized in the Notice of Inquiry I sent to the appellant. The appellant submitted representations taking the position that the withheld records do not qualify for exemption under section 14(1) of the *Act*. I then sent a Notice of Inquiry summarizing the appellant's position to the individuals identified in the records. Of the eight individuals contacted, four provided written representations objecting to the release of the records. Of the remaining four individuals, three did not respond to the Notice of Inquiry and one indicated that she would not be providing representations. None of the public health inspectors contacted by this office consented to the release of the information at issue.

[6] In this order, I find that the information at issue does not contain the personal information of any identifiable individual. Accordingly, the personal privacy provisions under the *Act* cannot apply to this information.

## **RECORDS:**

[7] Completion Rate Reports for 2008 and 2009, organized by the named public health inspector's area of responsibility.

## **DISCUSSION:**

### **Do the records contain "personal information" as defined in section 2(1)?**

[8] In order to determine which sections of the *Act* may apply, it is necessary to decide whether the record contains "personal information" and, if so, to whom it relates.

[9] The appellant argues that the information relates to the individuals in their official capacities as public health inspectors.

[10] The public health unit submits that the information at issue constitutes the personal information of the individuals identified in the record as defined in paragraph (b) of section 2(1).<sup>1</sup> In support of its position, the public health unit states the following in its representations:

The requester requested the records to be filtered by area of APH employee responsibility. This was not provided. It is our opinion providing records by area of employee responsibility constitutes personal information (work history), as defined by section 14(3)(d) of the *Act*.

...

It would be easy in our opinion for the requester to form an opinion on the efficiency of each inspector should the information be further filtered or organized by employee responsibility. We request that the appeal be denied based on our understanding of the *Act* that it would be an invasion of personal privacy.

[11] As noted above, four public health inspectors provided written representations. They submit that the information at issue constitutes their employment history and thus constitutes their personal information. In support of their positions, they state:

- This information details dates and locations of places I personally have visited on specific days of a calendar year. An individual would be able to chronologically identify my whereabouts by this information and no member of the public has or should have access to this information. My professional whereabouts are communicated daily to my immediate supervisor, and the only person required to have that detailed information is my immediate supervisor.
- Physical inspections of premises are one of the many facets of our job and completion rate reports of inspections create an inaccurate picture of the work done as a whole within our profession...
- My first reaction at reading about this request was one of alarm and feeling threatened that my professional performance would be scrutinized out of context and by parties other than my immediate supervisor.

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<sup>1</sup> "personal information" means recorded information about an identifiable individual, including, information relating to the education or the medical, psychiatric, psychological, criminal or **employment history** of the individual or information relating to financial transactions in which the individual has been involved.

- Release of this information could affect my reputation as it could be employed to convey an inaccurate representation of my work performance. These records do not cover all the type of work I do during my daily routine.
- I am accountable to my direct supervisor both in where and what I do on a daily basis, it is they who judge my capabilities as a Public Health Inspector. To use inspection rates (data) to determine an inspector's ability is not a fair scrutiny as inspections make up only a portion of an inspector.

### ***Decision and Analysis***

[12] In my view, the information at issue does not relate to the individuals named in the records in a personal capacity. To qualify as personal information, the information must be about the individual in a personal capacity. As a general rule, information associated with an individual in a professional, official or business capacity will not be considered to be "about" the individual [Orders P-257, P-427, P-1412, P-1621, R-980015, MO-1550-F and PO-2225]. Following the analysis set forth in Order PO-2225, the first question I must ask is: "*In what context do the names of the individuals appear?*" The second question I must ask is: "*is there something about the particular information at issue that, if disclosed, would reveal something of a personal nature about the individual ?*"

[13] With respect to the first question, I am satisfied that the information contained in the records solely relate to the public health inspectors in a professional or business context. The information at issue was compiled in the course of their jobs as public health inspectors.

[14] As a result of this finding, the next question I must ask is whether there is anything about the information at issue which, if disclosed, would reveal something of a personal nature about the public health inspectors identified in the records.

[15] Previous decisions from this office have found that even if information relates to an individual in a professional, official or business capacity, it may still qualify as personal information if the information reveals something of a personal nature about the individual [Orders P-1409, R-980015, PO-2225 and MO-2344].

[16] The records at issue in this appeal identify the dates of the last two routine inspections completed by the inspector, along with information about the number of required, actual and outstanding inspections for each location. The reports also calculate a percentage representing the completion rate for each facility the public health inspector was required to inspect. It appears that the completion rate is the

result of factoring the number of inspections that were supposed to occur with the number of inspections which actually occurred.

[17] The parties resisting disclosure submit that disclosure of the information at issue would reveal the public health inspectors' employment history. In particular, they argue that disclosure would reveal information about each inspector's efficiency and performance. In addition, each of the public health inspectors providing representations submit that disclosure of the records could lead to inaccurate assumptions about their employment performance. In support of this position, the inspectors submit that conducting inspections is just one of their job responsibilities. Finally, one of the inspectors raised a concern that disclosure of the records would reveal information about his or her daily employment activities and whereabouts.

[18] In my view, the records contain information about one aspect of the public health inspectors' employment responsibilities during a specified period of time. Having regard to the parties' representations, I find that disclosure of this information would not reveal information about the inspector's employment history as it relates to just one aspect of their jobs with the public health unit.

[19] I also considered the concern raised by one of the inspectors that disclosure of the records would reveal his or her whereabouts on a given date in 2008 or 2009 and find that disclosure of this information would not reveal something of a personal nature about the public health inspector. In making my decision, I note that the dates identified on the record merely reflect the inspector's past visits to a facility within his or her area of responsibility in those years.

[20] Having regard to the above, I find that the information at issue does not contain the personal information of any identifiable individual. The only individuals or entities identified in the records are public health inspectors and the facilities inspected. In addition, information regarding the inspector's findings are not contained in the reports.

[21] As I have found that the records do not contain personal information as defined in section 2(1), the personal privacy provisions under section 14(1) can not apply to the records. As the parties resisting disclosure have not raised the possible application of any other exemption under the *Act* and no other mandatory exemption applies, I will order the public health unit to disclose the records to the appellant.

## **ORDER:**

1. I order the public health unit to disclose the records to the appellant by **February 23, 2012** but not before **February 17, 2012**.

2. In order to verify compliance with Order Provision 1, I reserve the right to require a copy of the information disclosed by the public health unit to be provided to me.

Original signed by: \_\_\_\_\_  
Jennifer James  
Adjudicator

\_\_\_\_\_ January 19, 2012