

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-3855

Appeal MA19-00219

Niagara Regional Police Service

October 30, 2019

**Summary:** The Niagara Regional Police Service received a request under section 36(2) (right of correction) of the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for correction to a specified report. The police denied the correction request, but added the request as a statement of disagreement to the record. The requester, now the appellant, appealed the police's decision to this office. In this order, the adjudicator upholds the police's decision to deny the correction request, and dismisses the appeal.

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

**Orders Considered:** MO-1594, MO-1438 and PO-1881-I.

### OVERVIEW:

[1] The Niagara Regional Police Service (the police) received a request under section 36(2) (right of correction) of the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for correction to a specified report. The police issued a decision denying the correction request, and also stating the following:

You may also request that your correction request be added to the report as a statement of disagreement to reflect the corrections requested that were not made.

[2] The requester, now the appellant, appealed the police's decision to this office.

[3] During the course of mediation, the appellant requested that the police attach her correction request to the record at issue as a statement of disagreement, and the police agreed to do so. However, the appellant is also pursuing the correction request.

[4] As a mediated resolution was not possible, the appeal was transferred to the adjudication stage, where an adjudicator may conduct an inquiry under the *Act*. I commenced an inquiry and invited representations from the police and the appellant. The appellant submitted representations, but the police declined to submit any.

[5] In this order, I uphold the police's decision to deny the correction request, and dismiss the appeal.

## **RECORDS:**

[6] The record at issue in this appeal consists of pages 2 and 3 of a specified police report.

## **DISCUSSION:**

### **Should the police correct personal information under section 36(2) of the *Act*?**

[7] Section 36(1) gives an individual a general right of access to his or her own personal information held by an institution. Section 36(2) gives the individual a right to ask the institution to correct the personal information. If the institution denies the correction request, the individual may require the institution to attach a statement of disagreement to the information. Sections 36(2)(a) and (b) state:

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

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

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

[8] This office has previously established that in order for an institution to grant a request for correction, all three of the following requirements must be met:

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.<sup>1</sup>

[9] In each case, the appropriate method for correcting personal information should be determined by taking into account the nature of the record, the method indicated by the requester, if any, and the most practical and reasonable method in the circumstances.<sup>2</sup>

### ***Representations***

[10] As noted above, representations were invited from the police, but they declined to submit any.

[11] The appellant takes issue with the officer's description of the statement she gave to the police. She provides her own rewritten statement for paragraphs one to four and six of the report. She also provides paragraph by paragraph commentary of changes she would like made to the report. The appellant submits that:

- The commentary in the first paragraph of the report is incorrect, abusive and counter-productive;
- The entire second, third and fourth paragraphs need to be rewritten;
- The fifth paragraph is missing other agencies that she reported to;
- The sixth paragraph should be deleted as it serves no useful purpose;
- The first three sentences of the seventh paragraph should be deleted, because they are either inaccurate or counter-productive; and
- The eighth paragraph serves no useful purpose.

[12] The appellant submits that the officer who wrote the report is not qualified to form the opinions that he makes in his report, especially given the short amount of time he spoke with her. The appellant further submits that the officer lacked professionalism and used terms that were counterproductive and defamatory in the report. The appellant submits that the officer failed to document widespread criminal activities directed towards her in the report, despite the unexplained presence of a specified individual in places she frequented. The appellant further submits that this specified individual has made inappropriate comments regarding high profile murders of women in Canada.

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<sup>1</sup> Orders P-186 and P-382.

<sup>2</sup> Orders P-448, MO-2250 and PO-2549.

[13] The appellant submits that while she could not file a recognizance against the specified individual, she filed one against another individual involved, but the Justice of the Peace refused to process her paperwork. The appellant submits that as a result of this, she contacted the Attorney General's office.

### ***Analysis and findings***

[14] As noted above, in order to qualify for a correction, all three of the following requirements must be met:

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.<sup>3</sup>

[15] After reviewing the record and the representations of the appellant, I find that the first requirement of the test has been met, and the information at issue is the personal and private information of the appellant. This information includes her name and gender, the statements she gave to the police, her medical and employment history, her personal views and opinions, and the views and opinions of others about her, which fall within paragraphs (a), (b), (e) and (g) of the definition of "personal information" in section 2(1) of the *Act*. Having found that the first requirement of the test has been met, I now turn to the second and third requirements.

[16] Records of an investigatory nature, such as the occurrence report at issue, cannot be said to be "incorrect" or "in error" or "incomplete" if they simply reflect the views of the individual whose impressions are being set out. 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.<sup>4</sup>

[17] In Order MO-1594, the adjudicator upheld the police's denial of the appellant's correction request, and found that:

... the information in these portions of the record is not inexact, incomplete or ambiguous, in the whole context of the record and given the purpose for which the information is recorded and, further, ... the appellant's suggested corrections reflect a substitution of opinion. In some cases, the record sets out the officer's summary or description of certain facts, such as the nature of the allegations, or the nature of the

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<sup>3</sup> Orders P-186 and P-382.

<sup>4</sup> Orders M-777, MO-1438 and PO-2549.

information provided by the appellant. Such a summary or description necessarily involved some judgment and interpretation of the information before the officer, and in this sense, reflects a combination of objective fact and the subjective perspective of the author. It should be noted that the officer was attempting to condense a large volume of information from the appellant in his description of the allegations, and it is perhaps not surprising that the appellant would have chosen to describe them differently himself.

... From my review of the information before me, there is no reason to doubt that the record is an accurate reflection of the officer's understanding of the state of events being described, and the request for correction is in essence a request to substitute one person's understanding for another.

[18] As noted above, the police declined to submit any representations. After considering the record and the appellant's representations, including the attachments, for the reasons that follow, I find that none of the information that the appellant requests to have corrected is inexact, incomplete or ambiguous so as to warrant correction under section 36(2)(a). The corrections that the appellant requests can be summarized as follows:

- She wants to substitute her own written statement for the officer's in paragraphs one to four of the report;
- She wants the fifth paragraph amended to include other agencies that she reported crimes to; and,
- She wants the sixth paragraph and the first three sentences of the seventh paragraph deleted.

[19] In my view, all of this information reflects the observations and views of the investigating officer as recorded by him during his conversation with the appellant. While the appellant may feel that the officer has misquoted her or left out information, this is the officer's summary of their conversation, which reflects a combination of objective fact and the subjective perspective of the officer. I agree with the adjudicator in Order MO-1438, where she states that the central issue is not whether the records are consistent with matters at issue at the time they were created, but rather, whether the statements reflect the views or observations of the officer as they existed at the time the record was created.

[20] The appellant takes issue with the officer's opinions of her and questions whether or not he is qualified to make those opinions. However, a correction request cannot be a substitution of opinion and whether or not he is qualified to form those opinions is not relevant to my determination of this appeal. I find that this correction request is essentially a request to substitute the appellant's opinion for that of the

officer's.

[21] Finally, while this did not satisfy the appellant, I note that the police have attached her correction request as a statement of disagreement to the record at issue under section 36(2)(b). I find that this is an appropriate remedy to address any of the alleged inaccuracies in the police report. The statement of disagreement includes the rewritten paragraphs that the appellant seeks to substitute in the report. Further, section 36(2)(c) provides that where the institution corrects the information or attaches a statement of disagreement, under section 36(2)(c), the appellant may require the institution to give notice of the correction or statement of disagreement to any person or body to whom the personal information has been disclosed within the year before the time the correction is requested or the statement of disagreement is required. As Order PO-1881-I states:

The remedy of attaching a statement of disagreement implies that there is a reasonable difference of opinion between an institution and a requester regarding the accuracy of the content of a record – the institution says it is accurate, the requester disagrees. Anyone looking at such a record in future knows that there is a dispute regarding its accuracy and can take that into account in assessing the reliance placed on the content of the record.

[22] In conclusion, I find that none of the information that the appellant requests to have corrected is inexact, incomplete or ambiguous so as to warrant correction under section 36(2)(a). Furthermore, I find that attachment of the appellant's correction request as a statement of disagreement to the record at issue is an appropriate remedy in the circumstances of this appeal.

**ORDER:**

I uphold the police's decision to deny the correction request, and dismiss the appeal.

Original signed by \_\_\_\_\_

Anna Truong  
Adjudicator

October 30, 2019 \_\_\_\_\_