

ALBERTA INFORMATION AND PRIVACY COMMISSIONER

Report on Investigation into Complaint Regarding Unauthorized Disclosure of Personal Information

July 18, 2002

**University of Calgary
Investigation #2482**

I. INTRODUCTION

[para 1] On May 7, 2002, the Office of the Information and Privacy Commissioner received a privacy complaint against the University of Calgary (“the University”).

[para 2] The Complainant said the University disclosed the Complainant’s home address and details of the Complainant’s spouse’s vehicle and licence plate number to the Complainant’s former supervisor. The Complainant believed the disclosure may have exposed the Complainant to harm and said, “...*The University has shown no regard for my safety...*”.

[para 3] Section 53(2) of the *Freedom of Information and Protection of Privacy Act* (“the FOIP Act”) allows the Commissioner to investigate complaints that personal information has been collected, used or disclosed in contravention of Part 2 of the FOIP Act. Accordingly, the Commissioner authorized me to investigate this matter. This report outlines my findings and recommendations.

II. BACKGROUND

[para 4] In December 2000, Campus Security was called to an incident involving the Complainant, the Complainant’s spouse, the former supervisor and some staff members. The Complainant was employed with the University at that time. Campus Security escorted the Complainant and the Complainant’s spouse off the premises. The incident was recorded in an “Incident Report”.

III. INVESTIGATION FINDINGS

[para 5] The University acknowledged that, in January 2001, the Complainant’s former supervisor asked Campus Security for a copy of the Incident Report. Campus Security disclosed the Incident Report to the former supervisor.

[para 6] The Incident Report contained the Complainant’s name and home address. The Incident Report also contained the following information about the Complainant’s spouse: name, birth date, home address, colour and make of vehicle, and licence plate number.

[para 7] Personal information is defined as “*recorded information about an identifiable individual*” (section 1(n) of the FOIP Act). I find that the information disclosed is “personal information” and is subject to the provision disclosures set out in Part 2 of the FOIP Act.

[para 8] As the Complainant only had issue with the disclosure of the home address, the details of the spouse’s vehicle and licence plate number, this report will be confined to these specific data elements.

[para 9] The Complainant said that the former supervisor did not know the Complainant’s home address. The Complainant claimed to have “specifically kept” the home address private from the former supervisor and other employees.

[para 10] The University said the Complainant’s home address was known to the former supervisor. The University provided me with a copy of a 1999 expense claim submitted by the Complainant to the former supervisor that included a home address. I noted that the address on the 1999 expense claim is different from the address on the Incident Report.

[para 11] In response to the University’s comments, I would like to say:

- Section 40(1) of the FOIP Act sets out the provisions under which a public body may disclose personal information. None of the provisions allows a public body to release personal information to a third party on the basis of prior knowledge.
- The Commissioner has said in a number of orders that there is a difference between knowing a third party’s personal information and having the right of access to that personal information under the FOIP Act (Order 96-008 [page 5]; 96-020 [228-229], 99-027 [175], 2001-001 [65]). Although the Commissioner’s comments were made in the context of a public body responding to an access application, I believe the same principle applies in this situation. Therefore, the fact that the former supervisor may know the Complainant’s home address from another source is not relevant to the issue of whether the University was authorized to disclose that information in the Incident Report.

[para 12] The University said the home address listed on the Incident Report was provided to Campus Security by the Complainant at the time of the incident. The University also said the home address on the Incident Report was inaccurate and incomplete as it was missing a street or avenue indicator.

[para 13] In my view, whether the home address noted on the Incident Report was incomplete or incorrect is not relevant to the issue of whether the University was authorized to disclose that information.

[para 14] The University said the former supervisor could have obtained access to the vehicle information and licence plate number from other means. However, as indicated earlier in this report, prior knowledge is not relevant to the issue of whether or not the University was authorized to disclose that information. In the same way, the fact that the former supervisor may obtain access to that information through other means is also not relevant to the issue of whether or not the University was authorized to disclose that information.

[para 15] During the investigation, I found the explanation for the disclosure depended upon the individual I asked for an explanation. The University provided three different explanations as to the disclosure of the Incident Report to the former supervisor. In my view, faulty recollection may partly account for the discrepancies – this is understandable, given the time lapse from the date of disclosure to when the complaint was filed with this Office. However, I believe the differences in the explanations may also be an indication that the disclosure provisions of the FOIP Act were not considered at the time of disclosure. I found no evidence of willful disclosure. Rather, it seems that the disclosure may be a simple matter of someone asking for information and getting it.

[para 16] After reviewing the circumstances surrounding the disclosure of the Incident Report to the former supervisor, I find that the disclosure of the Complainant's home address and the details of the spouse's vehicle and license plate number did not fall under any of the provisions under section 40(1) of the FOIP Act. Therefore, I conclude that the University did disclose personal information in contravention of the FOIP Act.

[para 17] Having said this, I believe there may be circumstances that warrant the disclosure of incident reports containing personal information. The University must view each disclosure on a case by case basis in accordance with the disclosure provisions set out in the FOIP Act.

IV. RECOMMENDATIONS

[para 18] Based on the findings of this investigation, I would make the following recommendations to the University:

1. That the University establish written policies and procedures regarding the disclosure of personal information contained in its incident reports.
2. That the University ensure its employees are informed of these policies and procedures and their responsibilities under the FOIP Act.
3. That the University review requests for incident reports, containing personal information, on a case by case basis to ensure that each disclosure is in compliance with the FOIP Act.

[para 19] The University said it now maintains a record of incident reports disclosed, i.e., what information was disclosed, to whom the information was disclosed, and when the disclosure occurred. In my view, this is a good practice and I appreciate the University's initiative on this.

[para 20] Upon receipt of the University's acceptance of the above recommendations, this case can be closed.

Submitted by

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