

**ALBERTA
INFORMATION AND PRIVACY COMMISSIONER**

**Report on the Investigation into a Complaint
Regarding the Disclosure of Personal Information**

April 27th, 2005

**City of Calgary
Emergency Medical Services**

**Investigation Report #F2005-IR-003
Case #3132**

I. COMPLAINT

[1] On November 2nd, 2004, a Complainant wrote to the Commissioner concerned that personal information of his contained in an email the Complainant wrote to the City of Calgary Emergency Medical Services (EMS) office had been disclosed contrary to the provisions of the *Freedom of Information and Protection of Privacy Act*.

[2] The Complainant had written the email on October 27th, 2004, to provide his views about an international charity program endorsed by the Calgary EMS. The Complainant was concerned that the EMS was supporting one of the programs of a charitable organization using a tax-funded public service.

[3] On October 29th, 2004, the Executive Director of the charitable organization (responsible for operating the program in Canada) emailed the Complainant and advised him that he had a copy of the email. The Executive Director also stated that he had written the Complainant's employer (an educational institution) to express his concern about the contents of the email. The charitable organization is an arm of an American evangelistic association.

[4] Section 53(2)(e) of the *Freedom of Information and Protection of Privacy Act* ("the Act") allows the Commissioner to investigate complaints that personal information has been collected, used or disclosed in contravention of Part 2 of the Act. Consequently, the Commissioner

authorized me to investigate the complaint. This report provides the findings and conclusion of my investigation.

II. ISSUE

[5] The issue in this investigation is:

Did the City of Calgary Emergency Medical Services disclose personal information in contravention of Part 2 of the *Act*?

III. FINDINGS

A. What is the information at issue?

[6] The information contained in the email is the Complainant's name; his email address; his employment title; his place of employment including the address, phone number, fax number and name of his employer; a brief reference to his employment responsibilities as a researcher in diversity issues; some personal history about the Complainant; and, the Complainant's opinions about: the Calgary EMS, the charity program in question, the volunteer link the Calgary EMS has with the charity program, Christian-focused charities in general, international relief efforts, and the Complainant's belief in the importance of supporting all faiths.

[7] Additional information includes the names of six EMS employees in either the "To:" or the "Cc:" portion of the email.

B. Is the information at issue personal information?

[8] The *Act* defines "*personal information*" as "*recorded information about an identifiable individual*" and provides a non-exhaustive list of personal information in section 1(n). Section 1(n) includes an "*individual's name, home or business address or home or business telephone number*", ... "*employment...history*" and an "*individual's personal views or opinions, except if they are about someone else*".

[9] Most of the information in the email is the personal information of the Complainant and is subject to the *Act*.

[10] The name of each of the EMS employees is their personal information and is subject to the *Act*.

[11] The record did not contain personal information about any individuals in the charitable organization.

C. Was the information disclosed by the City of Calgary EMS?

[12] Besides being sent to six EMS employees, the email was also addressed to the Mayor's office. As it was not immediately apparent who disclosed the email to the charitable organization or how it had been disclosed, the charitable organization was contacted. One of the Directors willingly provided a copy of the email they had received to see if that would provide any indication as to who had disclosed the email.

[13] The email had an employee's name on the top left corner indicating it had been printed from that employee's computer. The name in the corner was one of the original recipients of the email.

[14] Once provided with an indication of the potential involvement of one of his employees, the Calgary EMS Chief questioned his staff. The employee whose name had been on the top left of the email had printed the email but had not disclosed it. It was determined that the email had sat in a tray used for unretrieved printed items awaiting pick-up.

[15] Another employee came forward and advised the EMS Chief that he had obtained the email and was the person who had provided it to the charitable organization. The employee had felt that the email was an "open letter" and not sent in confidence. Part of the employee's responsibilities included assisting with the EMS's volunteer support role of the charitable organization. He made a copy of the email, put it in an envelope and hand-delivered it to the charitable organization while performing other duties.

[16] The Chief took responsibility for the disclosure. The personal information was disclosed by the Calgary EMS.

D. Is the disclosure a contravention of Part 2 of the FOIP Act?

[17] Section 40(1) allows a public body to disclose personal information only under the circumstances listed in the section. For example, personal information may be disclosed:

...

(c) for the purpose for which the information was collected or compiled or for a use consistent with that purpose;

(d) if the individual the information is about has identified the information and consented, in the prescribed manner, to the disclosure;

...

(bb) when the information is available to the public,

(bb.1) if the personal information is information of a type routinely disclosed in a business or professional context and the disclosure

(i) is limited to an individual's name and business contact information, including business title, address, telephone number, facsimile number and e-mail address, and

(ii) does not reveal other personal information about the individual or personal information about another individual,

...

[18] The first three provisions were considered because the employee who disclosed the information indicated he felt that the email had not been provided in confidence and was an "open letter". The last one, subsection 40(1)(bb.1), was considered because of its potential relevance to the names of the employees.

[19] Nothing on the face of the email indicates that it was intended for an audience broader than the addressees. The email was addressed only to individuals in the Calgary EMS and to the Mayor's office. The Complainant does not state in the text of the email that the email is intended for anyone other than the EMS employees who would potentially deal with the charity program.

[20] Near the end of the email, the Complainant requests that the EMS consider discontinuing its support of the program. This and other language in the email indicates that the message is for "the leadership" of the Calgary EMS and is particularly directed to the Chief as the head of the EMS.

[21] The email was sent for the purpose of making a request and for informing the Chief that the Complainant felt it was inappropriate to use public employees, even on a volunteer basis, to assist a charity that uses the program as, in the words of the Complainant, "an evangelical tool to convert non-Christian children around the world" and for "world evangelism".

[22] The information was not sought by the Public Body. The EMS Chief had responded via email and thanked the Complainant for his comments. He also advised the Complainant that his office had

researched the issue and had decided to continue to support the program because he was satisfied that the charitable part of the program would be kept separate from the evangelist element.

[23] The Public Body had collected the information as it would any other citizen request or complaint: for the purpose of being receptive to and following up on the concerns of the residents of Calgary who may utilize the services of the Calgary EMS. The personal information was not collected for passage on to another agency.

[24] The first part of section 40(1)(c) ~ disclosure for the purpose for which the information was collected ~ does not apply.

[25] For a disclosure to be consistent with the original reason for collection, the disclosure must have “a *reasonable and direct connection to that purpose, and*” must be “*necessary for performing the statutory duties of, or for operating a legally authorized program of, the public body that uses or discloses the information*”, as provided by section 41 of the Act.

[26] According to its website the Emergency Medical Services:

“... is committed to promoting the safety and well being of citizens. No longer viewed as just transportation to health care facilities, ground ambulance services and ambulance crews serve as the front-line of our emergency health care system and play a critical role in the provision of emergency care and treatment of a patient's medical condition or traumatic injuries.

Calgary EMS experiences over 90,000 emergency responses a year, and operates 43 advanced life support (ALS) response vehicles during peak times of the day when call volumes are highest. On certain time-dependent life threatening calls, paramedics are assisted by the Calgary Fire Department first responders.”

[27] The EMS is the first response and care agency for life emergencies in the City of Calgary. With that responsibility comes the obligation ~ albeit a less critical one and with greatly reduced urgency ~ to be receptive and to respond to concerns individuals may have with the service. The disclosure did not have a reasonable and direct connection to that purpose and was not necessary for performing the duties of the Calgary EMS.

[28] The latter and remaining part of section 40(1)(c) ~ disclosure for a use consistent with the original purpose of collection ~ does not apply.

[29] The Complainant did not consent to the disclosure of his personal information. Section 40(1)[d] does not apply.

[30] While I understand some of the views expressed in the email were generally known to some members of the Calgary EMS involved in volunteering for the charitable program (and may even have been generally known to the Executive Director of the charitable organization), the personal information was not available to the public. Section 40(1)(bb) does not apply.

[31] A review of section 40(1) found that none of the other circumstances apply to the disclosure of the Complainant's personal information.

[32] The remaining personal information in the email was the first and last names of the employees of the EMS. No other information was contained in the email about the employees. The information is of a type routinely disclosed in a business or professional context and the disclosure did not reveal any other personal information about the EMS employees.

[33] Section 40(1)(bb.1) applies to the disclosure of the employees' personal information.

IV. CONCLUSION

[34] The disclosure of all of the Complainant's personal information was a contravention of Part 2 of the *Act*.

[35] The disclosure of the personal information of the employees named in the email was an allowable disclosure under section 40(1)(bb.1) and was therefore not a contravention of Part 2 of the *Act*.

V. RECOMMENDATIONS and CLOSING COMMENT

[36] I recommend that the staff of the City of Calgary EMS take the training necessary to ensure that they are mindful of their privacy obligations under Part 2 of the *Act*.

[37] I recommend that procedures be established that provide guidance to the staff on how to deal with the receipt of such correspondence.

[38] Following my interview with the affected staff, the Chief of the City of Calgary EMS agreed to the recommendations.

[39] I would like to thank the members of the Calgary EMS, particularly the Chief and the employee who disclosed the information for their

cooperation and candor and, the individual in the charitable organization who assisted me in this investigation for his willing assistance.

[40] This case is now closed.

Respectfully submitted by,

Catherine Taylor
Portfolio Officer