

**ALBERTA**  
**INFORMATION AND PRIVACY COMMISSIONER**

**An Investigation on the Collection, Use and Protection  
of Personal Information  
by the Calgary Parking Authority  
for the ParkPlus System**

**(Investigation #F4291)**

**November 24<sup>th</sup>, 2008**

**Investigation Report F2008-IR-002**

**I. INTRODUCTION**

[1] On November 21<sup>st</sup>, 2007, the Commissioner received notification from an individual that the Calgary Parking Authority was collecting licence plate information under a program referred to as ParkPlus. ParkPlus allows drivers to park on certain city streets for a fee.

[2] It was not clear whether the Complainant's own personal information had been collected. As the issue introduced a new collection of personal information by the Calgary Parking Authority and thus had relevance to privacy, on November 26<sup>th</sup>, 2007, the Commissioner decided to initiate an investigation on his own motion under section 53(1)(a) of the *Freedom of Information and Protection of Privacy Act* (the "Act").

[3] Section 53(1)(a) of the Act authorizes the Commissioner to conduct investigations to ensure compliance with any provision of the Act.

[4] The Commissioner authorized me to investigate this matter. This report provides my analysis of the issues and the findings of my investigation.

## **II. THE PARKPLUS SYSTEM**

[5] The Calgary Parking Authority was established by bylaw and given certain purposes including, among other things: managing and operating parking facilities ~ which, by definition in the bylaw, includes any parking permit system, area, device or arrangement used for public parking ~; and, managing and operating a parking enforcement program.

[6] The ParkPlus System was introduced by the Calgary Parking Authority (the “Public Body” or the “CPA”) to manage public parking in downtown Calgary. Existing parking meters were replaced with solar powered pay machines in newly established parking zones.

[7] The ParkPlus System was designed to replace traditional parking meters and pay ‘n’ display systems. Implemented in the fall of 2007, the system collects the vehicle licence plate numbers and payment information of individuals using the parking service. Interestingly, since the system was not previously available in the marketplace, the City of Calgary has filed for a world-wide patent on it.

[8] While no one is required to use the ParkPlus System, if one wants to park on certain city streets and not receive a parking violation, the ParkPlus System must be used.

## **III. HOW PARKPLUS WORKS**

### *When Parking*

[9] When a driver decides to park in an area designated as a ParkPlus Parking Zone the driver parks her/his vehicle and attends one of the ParkPlus pay machines located in the vicinity of the designated areas or the driver uses the cell phone payment system. The driver enters the 4-digit parking zone number, his/her licence plate number and the payment method. There are three methods of payment:

- a) Cash/coins (not available with cell phone payment) ;
- b) Credit card; or,
- c) ParkPlus Account

[10] The ParkPlus System records all parking transactions. The data gathered is the date and time of the transaction and the amount of time purchased; the parking zone; the cost of the parking transaction; the credit card information if payment was by card; the licence plate number; and, the phone number related to the transaction (if applicable).

### *For Account Holders*

[11] No further personal information is collected for items (a) and (b) unless an offence occurs ~ i.e., the driver does not remove the vehicle before the allotted time expires. If, however, a driver opens a ParkPlus Account, the following information must be provided.

- A user ID (determined by the driver) referred to later as “Login”;
- First and last name
- Email address

[12] Drivers may provide their middle name, a company name (if applicable) and a contact phone number. A mailing address ~ street address, municipality, country (either Canada or the United States) and postal code is also requested though it is only required if the driver wishes contact by that method.

[13] Once the information is provided, drivers are immediately notified by email that an account has been opened and they are provided with a temporary password. Drivers are then asked to login and change the temporary password.

[14] Once that is complete, additional information is requested: phone number or email address the driver wishes to use to activate and deactivate his/her parking session/occurrence, and to be notified about a low balance in the driver’s account; the preference of whether a driver wishes notification by phone, email or not at all during a specified do-not-call time range; the time prior to expiry the driver wishes to be notified, in minutes; plate number; the vehicle length, if desired (a discount is available for cars less than 380 cm in length); the low balance notification threshold (e.g., \$10, \$20, etc.); credit card type, number, and expiry date; the credit card holder’s name as it appears on the card; and the amount the driver wants in his/her credit account.

[15] Drivers must also accept or decline to accept the licence agreement. This is a simple yes or no; no additional personal information is collected. If they decline, an account is not established and the personal information is not kept.

### *For Parking Enforcement*

[16] The Calgary Parking Authority has a mobile photo enforcement unit. These employees of the CPA are known as Enforcement Officers. They are peace officers, an office appointed by the province, who operate the mobile photo enforcement vehicles and gather the following

information while driving along public streets: the date and time of every observation of a parked vehicle; GPS coordinates of the observed vehicle; the licence plate number of the parked vehicle; two digital photographs, one of the side and one rear view of the parked vehicle; and, the vehicle size.

[17] According to the response provided by Calgary Parking Authority “[t]he day after customers have completed parking payment transactions and peace officers have gathered records of parking occurrences, the two data sets are compared. Where peace officers have recorded instances of a parking occurrence and there is no matching customer transaction showing parking payment, a violation is deemed to have occurred. The key record match is based on the parking zone and the licence plate.”

[18] The CPA also stated that “[o]nly after a violation has been confirmed to have occurred by a peace officer will ParkPlus link the vehicle licence plate number to the last known registered owner’s personal information for the purposes of issuing a notice of parking violation. Access to Alberta Registries information is governed by the terms and conditions of [the] agreement with the provincial government.”

[19] Further to the Peace Officer Appointment document signed by Officers employed by the City of Calgary Parking Authority, “[t]he person ...has the authority...to enforce the ... legislation and all regulations thereunder, and serve court documents relating to the Provincial Offences and Procedures Act [and] the Traffic Safety Act”. The *Traffic Safety Act* authority is restricted to non-moving violations. The Officers also enforce the Calgary Parking Bylaw and the Calgary Traffic Bylaw.

#### **IV. INVESTIGATION ISSUES**

[20] The issues are:

1. Did the Calgary Parking Authority collect personal information in compliance with sections 33 and 34 (purpose for and manner of collection) of the *Act*?
2. Did the Calgary Parking Authority protect the personal information by making reasonable security arrangements against the risks of unauthorized access, collection, use, disclosure or destruction as required by section 38 of the *Act*?
3. Did the Calgary Parking Authority use the personal information in compliance with section 39 of the *Act*?

[21] The investigation included a jurisdictional issue:

4. Does section 4(1)(l) of the *Act* apply to the personal information collected by the Calgary Parking Authority from the Office of the Registrar of Motor Vehicles?

**V. APPLICATION OF THE *Freedom of Information and Protection of Privacy Act***

[22] Separate from the City of Calgary, the Calgary Parking Authority is a local government body as defined in section 1(i)(xii) of the *Act*. It was established in 2002 by Calgary City Council under Bylaw Number 28M2002. Pursuant to section 4 of the Bylaw, all members of the CPA are appointed by Council.

[23] Further to section 1(j)(iii) of the *Act* a local government body is a local public body and further to section 1(p)(vii), a local public body is a public body. Therefore, the Calgary Parking Authority is a public body subject to the *Act*.

[24] Personal information is defined in the *Act* as “*recorded information about an identifiable individual*”. Among other things, the definition includes an individual’s name, address, telephone number, and identifying numbers or other particulars assigned to the individual such as drivers’ licence and credit card numbers.

[25] While not referred to specifically in the definition, a photograph of a person is also “*recorded information about an identifiable individual*” and therefore personal information. A photograph is a record of a person’s facial image. A photograph reveals characteristics of a person such as gender; relative weight, hair, skin and eye colour; and facial features that, for the most part, uniquely identify someone. The features may also identify national or ethnic origin.

[26] A photograph of a vehicle is usually not personal information unless it can be identified with a person (e.g., the only burnt-orange Lamborghini in town and it is generally known that it is owned by a professional hockey player). When the registered owner is a single individual, I find that a photograph of a vehicle licence plate number is personal information because the plate number is attributed to an identifiable individual. If the vehicle is registered to an entity that is not an individual, the *Act* does not apply.

[27] The *Act* allows for the collection of personal information by public bodies under three limited circumstances (section 33) and it requires that the information be collected directly from the individual the information is about unless another provision allows for an indirect

collection (section 34). The *Act* allows for the use of personal information under the conditions identified in section 39. Additionally, the *Act* places a duty on public bodies to protect personal information against certain risks such as unauthorized access, use and disclosure (section 38).

[28] A limited number of records in the custody or under the control of public bodies are excluded from the application of the *Act*. Section 4(1)(l) (ii) excludes records made from information in the Office of the Registrar of Motor Vehicles.

## **VI. ANALYSIS and FINDINGS**

### **Collection of Personal Information**

[29] The collection of personal information is dealt with in sections 33 and 34 of the *Act*. Section 33 deals with the purpose of collection. Section 34 deals with the manner of collection.

#### *Purpose of Collection*

*33 No personal information may be collected by or for a public body unless*

*(a) the collection of that information is expressly authorized by an enactment of Alberta or Canada,*

*(b) that information is collected for the purposes of law enforcement, or*

*(c) that information relates directly to and is necessary for an operating program or activity of the public body.*

[30] The *Act* restricts the collection to those activities that are connected to one of the conditions in section 33. If the collection meets one of the three criteria above, then the collection becomes allowable under the *Act*. For the ParkPlus System, the CPA collects personal information for four different purposes.

#### *Collection at the Time of Parking Occurrence ~ No Account*

[31] Section 33(c) allows for the collection of personal information gathered at the time of a parking occurrence. The licence plate number and a credit card number (when applicable) is information that directly relates to the parking program and is necessary for the Public Body to operate that activity: the plate number, to ensure the vehicle is identified as being allowed to park; and, the credit card, to collect payment for the CPA.

### *Collection to Open an Account for Future Parking*

[32] The personal information gathered for opening an account is also collected under the authority of section 33(c). The driver's name, email address or phone number, plate number, credit card number (if applicable ~ a cheque may also be used), and, cell phone or land line number is information that directly relates to the parking program and is necessary for the Public Body to operate that activity: the name with email or phone number, to advise a driver that his/her account balance is diminishing; the plate number, to ensure the vehicle is identified as being allowed to park; the credit card, to collect payment for the CPA; and the phone number, for the CPA to confirm that an account exists when a driver calls in to trigger the beginning of a parking session and also for the system to advise the driver when the time is about to expire.

### *Collection of Vehicle Plate Number for Parking Enforcement*

[33] Occasionally, a driver may park and neglect to pay. This would mean that at the time the driver is parking no personal information is collected, including no vehicle licence plate number, because the driver is not providing any information. Therefore, when the Enforcement Officers drive by and record the plate number they are undertaking a new collection. For the same reasons in paragraphs 31 and 32 above, the collection would be allowed under section 33(c) of the Act: the information would be collected for the CPA's parking program purpose of identifying and confirming that the vehicle being photographed does not have a matching payment transaction.

### *Collection of Vehicle Owner Contact Information for Parking Enforcement*

[34] When there is a potential parking infraction ~ a parking occurrence with no matching parking payment ~ Enforcement Officers collect personal information by accessing the Motor Vehicle Information System. The CPA has entered into an agreement with the Registrar of Motor Vehicle Services for access to the registered driver's name and address based on the vehicle plate number. The CPA collects the information for the purpose of sending notice to collect the fine that results from non-payment.

[35] Usually, the information gathered at this point would be collected under section 33. However, in this case, a provision in section 4 of the Act applies.

4(1) *This Act applies to all records in the custody or under the control of a public body, including court administration records, but does not apply to the following:*

...

*(l) a record made from information ...*

*(ii) in the office of the Registrar of Motor Vehicle Services,*

[36] The registered driver's contact information collected for parking enforcement purposes is a record drawn from the office of the Registrar of Motor Vehicle Services. Further to section 4(1)(l), above, such a record is not subject to the provisions in the Act. Consequently, the collection at this point is not subject to the provisions in the Act.

[37] The agreement the CPA has with the Registrar of Motor Vehicles allows for the disclosure by the Registrar for the purpose of collecting a fine or debt owing by an individual to a public body, or when a law enforcement proceeding is likely to result. Thus, getting the information from the Office of the Registrar, and the subsequent use, disclosure and protection by the CPA is governed not by the FOIP Act but by the agreement the CPA has with the Registrar of Motor Vehicles which in turn is governed by the *Alberta Motor Vehicles Information Regulation*.

### **Manner of Collection of Personal Information**

[38] Section 34(1) of the Act requires a public body to collect personal information directly from the person the information is about unless another condition in section 34(1) applies. When personal information is collected directly from the individual, section 34(2) requires a public body to notify the individual about the purpose and authority of the collection and to provide contact information in case anyone has any questions.

*34(1) A public body must collect personal information directly from the individual the information is about unless*

...

*(h) the information is collected for the purpose of collecting a fine or a debt owed to the Government of Alberta or a public body,*

...

*(2) A public body that collects personal information that is required by subsection (1) to be collected directly from the individual the information is about must inform the individual of*

*(a) the purpose for which the information is collected,*

*(b) the specific legal authority for the collection, and*

*(c) the title, business address and business telephone number of an officer or employee of the public body who can answer the individual's questions about the collection.*

...

[39] In this case, the CPA collects personal information both directly and indirectly depending on the original purpose.

- The vehicle plate number, credit card data (if applicable) and all data needed for an account is collected directly from the individual at the time of a parking occurrence, or when opening an account because the individual him/herself enters the data at the ParkPlus machines, and, when applicable, on-line to open an account.
- The vehicle plate number is personal information that is collected indirectly by Enforcement Officers when the driver has not paid and has not previously provided his/her plate number.

#### *Direct Collection for Current and Future Parking Occurrences*

[40] The ParkPlus System has notices on its general website, on the account set-up page, near the ParkPlus pay machines, and on brochures advising drivers of the purpose for the collection and it provides contact information. This satisfies the requirements in section 34(2) for personal information collected directly.

#### *Indirect Vehicle Plate Number Collection*

[41] It is an indirect collection when Enforcement Officers record a licence plate number when the driver has not paid and has therefore not previously provided his/her plate number. It is allowed for under section 34(1)(h) and thus the conditions in section 34(2) are no longer required. Section 34(1)(h) allows for an indirect collection when the information is collected for the purpose of collecting a fine or debt. If someone does not pay, and had therefore not previously provided his/her plate number, the result is a fine levied by the CPA.

## Use of Personal Information

[42] The information collected by the CPA is used only for parking enforcement. Parking enforcement is divided into three subsets. The information collected in those subsets is used:

- To allow a vehicle to park at the time of collection;
- To open an account to allow a vehicle to park in the future; and,
- For matching the plate data to the Motor Vehicles Information System.

[43] Personal information may only be used for the very limited purposes identified in section 39 and that use is further restricted to only the extent necessary to carry out that purpose.

*39(1) A public body may use personal information only*

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

*...*

*(4) A public body may use personal information only to the extent necessary to enable the public body to carry out its purpose in a reasonable manner.*

[44] If a driver pays either at the time of the parking occurrence or by opening an account, and thus provides his/her plate number and the other applicable personal information, then the information is used only to allow a vehicle to currently park or to park in the future by matching the plate number to the parking occurrence transaction. It thus conforms to section 39(1)(a), in that the personal information is used only for the purpose for which it was collected.

[45] If a driver does not sign up for an account and does not pay at the time of the parking occurrence ~ and had thus not provided his/her plate number ~ the collection of the plate number by the Enforcement Officer would be a new collection and is covered in paragraph 33 above. The information is then used only for parking enforcement which is the purpose for which the personal information was collected.

[46] Once it is confirmed that there is no payment transaction to match with the parking occurrence, the vehicle licence plate number is then used to match against a record in the Motor Vehicles Information System. The information is used for parking enforcement which is the purpose for which the personal information was collected.

## **Protection of Personal Information**

[47] The protection of personal information is dealt with in section 38 of the *Act*, which reads:

*38 The head of a public body must protect personal information by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or destruction.*

[48] The CPA provided the following information with respect to the protection of the personal information and financial transactions of its customers.

“While not a legal requirement at this time in Canada, the ParkPlus System was designed and developed from the outset specifically to Payment Card Industry (PCI) data security standards (DSS) which is a set of comprehensive requirements for enhancing payment data security measures on a global basis.

The PCI DSS is a multifaceted security standard that includes requirements for security management, policies, procedures, network architecture, software design and other critical protective measures. This comprehensive standard was developed by the founding payment brands of the PCI Security Standards Council and is intended to help organizations like the CPA proactively protect customer account data.

Similarly, Information Security Management Systems (ISMS), in our case ISO/IEC 27001, is a systematic approach to managing sensitive company information so that it remains secure. The system encompasses people, processes and IT systems.”

[49] Retention of credit card data is set at 24 months. Storage is in an encrypted format. The entire credit card number is not exposed even to those few staff who respond to customer inquiries.

[50] The personal information collected by the Calgary Parking Authority is housed and resides in Calgary in the CPA office.

[51] Reasonable security arrangements include having properly trained staff subject to sufficiently rigid standards. Enforcement Officers are subject to the conditions in the *Peace Officer Act*; and, an Officer must “abide by Public Security Peace Officer Program Policy”. (The Policy is administered by Alberta Solicitor General and Public Security.) Among other things, the policy provides guidelines on the training requirements

of Peace Officers. The Peace Officer appointment limits their duties to that which is “within the scope of his/her employment”.

[52] The conditions put in place by the Public Body provide for a reasonable measure of security for the protection of the information from unauthorized access, collection, use, disclosure or destruction.

## **VII. CONCLUSIONS**

[53] In my opinion, the Calgary Parking Authority collected the personal information in compliance with section 33 and with section 34 of the *Act*.

[54] In my opinion, the Calgary Parking Authority used the personal information in compliance with section 39 of the *Act*.

[55] In my opinion, the Calgary Parking Authority has made reasonable security arrangements to protect the personal information against the risk of unauthorized access, collection, use, disclosure or destruction as required by section 38 of the *Act*.

[56] This case is now closed.

Submitted by,

Catherine Taylor  
FOIP Portfolio Officer