

ALBERTA

OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER

ORDER F2013-25

August 28, 2013

EDMONTON AND AREA CHILD AND FAMILY SERVICES AUTHORITY (REGION 6)

Case File Number F5919

Office URL: www.oipc.ab.ca

Summary: The Complainant complained that Edmonton and Area Child and Family Services Authority (Region 6) (the Public Body) disclosed her personal information to her former husband (the biological father of two of her children).

The Adjudicator found that the Public Body did not disclose the Complainant's personal information to her former husband as she alleged.

Statutes Cited: AB: *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, s. 72.

Authorities Cited: AB: *University of Alberta v. Alberta (Information and Privacy Commissioner)*, 2009 ABQB 112, Order P2006-008

I. BACKGROUND

[para 1] The Complainant was divorced from her former husband (the third party) in 2007. She was granted sole custody of their two children (the children) and the third party was given access.

[para 2] In August of 2011, an employee of East Central Alberta Child and Family Services Authority (Region 5) interviewed one of the children. These interview notes were attached by the third party as an exhibit to an affidavit he filed and presented in Court in support of his application to gain custody of the children. On August 30, 2011, the Court granted the third party's application.

[para 3] On September 7, 2011, the Complainant submitted a Complaint to the Office of the Information and Privacy Commissioner (this Office). In it, the Complainant stated that the Public Body had disclosed her personal information to the third party contrary to the *Freedom of Information and Protection of Privacy Act* (the Act). It is unclear who the Complainant believes disclosed this information. Two files were opened, one naming East Central Alberta Child and Family Services Authority (Region 5) as the public body (file F5983) and one naming Edmonton and Area Child and Family Services Authority (Region 6) as the public body (file F5919).

[para 4] A portfolio officer was assigned to try to resolve the issues between the parties. This was not successful and on April 26, 2012, the Complainant requested an inquiry. In her request for inquiry the Complainant mentions that the interview notes were disclosed to the third party as well as some other information, disclosed verbally, regarding a third child who is not related to the third party. I received initial and rebuttal submissions from both the Complainant and the Public Body. As well, I asked several questions of the Public Body and received submissions in response to those questions from both the Public Body and the Complainant.

II. INFORMATION AT ISSUE

[para 5] The information at issue in this inquiry consists of the interview notes made by the employee of the Public Body from August of 2011 (the interview notes) and the information disclosed verbally regarding the Complainant's third child.

III. ISSUES

[para 6] The Notice of Inquiry dated November 14, 2012 lists the issues for this inquiry as follows:

1. Did the Public Body disclose the Complainant's personal information to her former husband?
2. If the Public Body did disclose the Complainant's personal information to her former husband, did it do so in contravention of Part 2 of the Act?

[para 7] Throughout the Complainant's submissions, she says the Public Body did not follow proper procedures when dealing with the issues of custody and protection of the children. For the purposes of this inquiry, I have no jurisdiction to review the acts and decisions of the Public Body beyond those that relate to the disclosure of personal information. Therefore, I will only make findings as to whether the Public Body adhered to or violated the FOIP Act.

IV. DISCUSSION OF ISSUES

1. Did the Public Body disclose the Complainant's personal information to the third party?

[para 8] As I noted above there are two disclosures which the Complainant believes occurred. The first is the disclosure of the interview notes to the third party and the second is the verbal disclosure of information about her third child to the third party.

[para 9] In response to questions I posed to the Public Body on April 25, 2013, the Public Body stated that it did not disclose the interview notes to the third party nor did it disclose information about the Complainant's third child to the third party.

[para 10] In Order P2006-008, the former Commissioner determined that an initial, evidential burden of proof rests with complainants to provide some evidence that the Organization disclosed their own personal information. If a complainant is able to do this, the onus to prove that the disclosure was justified shifts to the organization (Order P2006-008 at para 10). In *University of Alberta v. Alberta (Information and Privacy Commissioner)*, 2009 ABQB 112, the Court accepted that this approach to the burden of proof applies to complaints made under the *Freedom of Information and Protection of Privacy Act*.

[para 11] On the basis of the evidence before me, I find that the Complainant has not met her burden insofar as the interview notes or the other information about her third child is concerned. I accept the Public Body's evidence that the Public Body did not disclose the interview notes to the third party and also did not verbally disclose information about the Complainant's third child. As indicated in Order F2013-26, the interview notes were disclosed to the third party by East Central Alberta Child and Family Services Authority (Region 5). Therefore, I find that the Public Body did not disclose the information at issue to the third party.

2. If the Public Body did disclose the Complainant's personal information to her former husband, did it do so in contravention of Part 2 of the Act?

[para 12] Given my finding above, this issue is moot.

V. ORDER

[para 13] I make this Order under section 72 of the Act.

[para 14] I find that the Public Body did not disclose the Complainant's personal information to her former husband.

Keri H. Ridley
Adjudicator