

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2021-06

March 9, 2021

EDMONTON POLICE SERVICE

Case File Number 005609

Office URL: www.oipc.ab.ca

Summary: The Complainant made a complaint to this Office regarding the Edmonton Police Service (EPS or the Public Body), alleging that the EPS was using inaccurate and incomplete information about her in order to make decisions. In particular, she complained that the EPS was retaining and using inaccurate and incomplete health information including diagnoses that have not been made by a qualified physician. The Complainant objected to the EPS' referring her to the Police and Crisis Response Team, which is a joint program between the EPS and Alberta Health Services (AHS).

The Commissioner authorized a review of the complaint. Following that review, the Complainant requested an inquiry. In her request for inquiry, the Complainant raised concerns about the EPS's authority to use her personal information as it did, and its authority to disclose it to Alberta Health Services.

The Adjudicator found that the EPS met its obligation to make every reasonable effort to ensure information used to make a decision about the Applicant is accurate and complete.

The Adjudicator found that the EPS had authority to use her personal information to refer her to the PACT unit, and for EPS PACT officers to assess the Complainant.

The Adjudicator also found that the EPS had authority to disclose the Complainant's personal information to the AHS members of the PACT unit.

Statutes Cited: AB: *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 1, 35, 39, 40, 41, 72

Authorities Cited: AB: F2006-018, F2008-029, F2013-14, F2017-39, F2021-03

I. BACKGROUND

[para 1] On March 23, 2017, the Complainant made a complaint to this Office regarding the Edmonton Police Service (EPS or the Public Body). She complained that the EPS was using inaccurate and incomplete information about her in order to make decisions. In particular, she complained that the EPS was retaining and using inaccurate and incomplete health information including diagnoses that have not been made by a qualified physician.

[para 2] The Complainant states that she called an EPS non-emergency complaint line to report a harassing phone call. Two officers came to her home to speak with her following that complaint. Concerned about statements made by the officers at that time, the Complainant filed a citizen concern with the EPS' Professional Standards Branch.

[para 3] In the course of dealing with that concern, the Complainant spoke with one of the officers again, after which she was contacted by the mobile mental health team. She states that a member of that team informed her that the EPS had asked him to call her as they were concerned about her mental health.

[para 4] The Complainant further states that she made several reports to the EPS between March 2015 and November 2016 relating to unwanted and/or harassing contact from her ex-boyfriend and individuals associated with him.

[para 5] In January 2016, the Complainant called the EPS complaints line after receiving a suspicious gift in the mail. The officer who responded later contacted the PACT team about the Complainant. The Complainant states that the officer's notes contain inaccurate and incomplete information about her, and do not record the PACT team's conclusion that there was no value in their becoming involved.

[para 6] In August 2016 she called the EPS complaints line about intimidating behaviour from a friend of her ex-boyfriend; she was asked to attend an EPS station. The Complainant states that she did so the following day and a PACT team member was there to speak with her, indicating that the sergeant she spoke with the previous evening had contacted the PACT (Police and Crisis Response Team) unit.

[para 7] The Complainant states that she has obtained copies of records from her Electronic Health Record (EHR) and police files, and believes the information the EPS information to be inaccurate and incomplete. She states that the information includes mental health diagnoses that were not made by a qualified physician. The Complainant submitted a correction request to the EPS, which is the subject of another file at inquiry.

[para 8] The Complainant states that the information was used to decide to contact Alberta Mental Health and determine how the officers would proceed with her complaints. She states that on several occasions PACT members concluded that she was not in need of their services but that this conclusion was not recorded by the EPS. Therefore, in subsequent situations in which the Complainant contacted the EPS, officers made determinations as to how to respond based on incomplete information.

[para 9] The Commissioner authorized a senior information and privacy manager to investigate and attempt to mediate the issues raised by the Complainant. Following the conclusion of this process, the Applicant requested that the Commissioner conduct an inquiry. In her request for inquiry, the Complainant raised concerns about the EPS' authority to use her personal information as it did, and its authority to disclose it to Alberta Health Services (which administers or has members on the PACT and related teams). These concerns relate to the narrative of events provided by the Complainant in her initial complaint and were added to the issues for the inquiry.

[para 10] The Complainant has referred to both PACT and CUSST as mental health-related teams she has spoken to in the course of, or as a result of, her interactions with EPS officers. The EPS has referred only to PACT. PACT stands for the Police and Crisis Response Team; the EPS has described it as “a mobile health partnership between members of the EPS and Alberta Health Services (AHS)” (initial submission at para. 2).

[para 11] CUSST appears to be a unit within AHS that may or may not continue to exist. An online AHS Index for services includes the Community Urgent Services & Stabilization Team (CUSST), which is described as a team offering crisis assessments and stabilization services to individuals experiencing acute mental health crises¹. Whether the Complainant dealt with PACT only, or also with an AHS-only unit (CUSST) is not a material factor for the issues in this inquiry; the involvement of AHS is a factor in the inquiry regardless of whether AHS was involved as part of PACT or CUSST.

II. ISSUES

[para 12] The issues as set out in the Notice of Inquiry dated October 2, 2020, are as follows:

1. Did the Public Body have a duty in relation to the Complainant's personal information under section 35? If yes, did the Public Body make every reasonable effort to ensure the Complainant's personal information was accurate and complete, as required by section 35(a) of the Act (accuracy and retention?)
2. Did the Public Body use the Complainant's personal information? If yes, did it do so in compliance with or in contravention of section 39 of the Act?

¹ <http://www.ecohh.ca/DocumentsTemp/AMH%20Index%20to%20Services.pdf>, at 1.2.12

If the Public Body is relying on section 39(1)(a), the parties should also make submissions as to whether the requirements of section 41 are met.

3. Did the Public Body disclose the Complainant's personal information? If yes, did it have authority to do so under sections 40(1) and 40(4) of the Act?

III. DISCUSSION OF ISSUES

Scope of inquiry

[para 13] Many of the concerns raised by the Complainant relate to how the EPS officers responded to the Complainant's harassment complaints; specifically, how they decided to investigate the complaints. *How* the EPS conducts its investigations does not fall within my jurisdiction to review. Concerns about police conduct fall within the purview of the *Police Act*.

[para 14] In her request for inquiry, the Complainant states that she is aware that the purpose of this inquiry is not to review how the EPS officers conducted their investigations into the Complainant's complaints. She states that she has pursued the proper avenues for those types of concerns. She notes that some of the concerns she has raised about the EPS conduct are provided as background information.

[para 15] In this Order I will address only the concerns that fall within my jurisdiction to review under the FOIP Act.

1. Did the Public Body have a duty in relation to the Complainant's personal information under section 35? If yes, did the Public Body make every reasonable effort to ensure the Complainant's personal information was accurate and complete, as required by section 35(a) of the Act (accuracy and retention?)

[para 16] Section 35(a) of the Act states:

35 If an individual's personal information will be used by a public body to make a decision that directly affects the individual, the public body must

(a) make every reasonable effort to ensure that the information is accurate and complete...

[para 17] In order for section 35(a) of the Act to apply, the Complainant's personal information must have been used to make a decision that directly affected her. In this case, the information at issue relates to harassment complaints made by the Complainant to the EPS. Much of this information is personal information of the Complainant.

[para 18] "Every reasonable effort" has been interpreted by this Office to mean:

Every reasonable effort is an effort which a fair and rational person would expect to be done or would find acceptable; the use of "every" indicates that a public body's efforts

are to be thorough and comprehensive and that it should explore all avenues in verifying the accuracy and completeness of the personal information. (See Orders F2006-018 at para 111 and F2017-39)

[para 19] The Complainant's concerns on this point relate to both the accuracy of the information she states was used to make a decision about her, and to the completeness of that information. I will discuss these separately.

Accuracy

[para 20] The Complainant has argued that the EPS files contain inaccuracies; she indicates that the inaccuracies were subsequently relied on to make decisions about her.

[para 21] Specifically, the Complainant argues that the officers made diagnoses in their notes about her mental health (without the requisite expertise to do so) and that these comments were used by other officers who responded to complaints she had made about being harassed. The Complainant indicates she believes that officers' notes stating that the PACT unit had been contacted in one instance influenced the actions taken by other officers in response to subsequent complaints made by the Complainant.

[para 22] The EPS has cited past Orders of this Office that have found the purpose of section 35(a) is not to correct opinions formed by public body employees, but to ensure public bodies take care to confirm the accuracy and completeness of the information used to make the decision.

[para 23] In Order F2013-14, the Director of Adjudication states (at para. 79):

Given these considerations, in my view, despite its broad wording, section 35(a) is to be engaged primarily in relation to information that does not depend, for the determination of its accuracy, on a quasi-judicial process. Rather, resort may be had to it where a public body is to make a decision on the basis of information the accuracy of which is readily ascertainable by reference to concrete data. As the Adjudicator noted in Order F2006-019, section 35 is intended to promote fair information practices and data quality in relation to personal information.

[para 24] The EPS also cites Order F2017-39, which explains the scope of section 35(a) (at para. 29):

In any event, I do not believe that section 35(a) of the Act goes so far as to place a burden on public bodies to investigate and research other sources of information to ensure that its decision is correct. Section 35(a) is about the accuracy and completeness of the information that the Public Body had before it when making its decision, not about the decision itself, nor what information the Public Body should have used when making its decision (Order 98-002 at para 73). As stated in other orders issued by this Office, section 35(a) of the Act ensures fair information practices and emphasizes the importance of data quality (Order F2006-019 at para 88). Therefore, the purpose of section 35(a) of the Act is to ensure that the factual data before a public body when making its decision is accurate and complete such as a birthdate or a social insurance number or, in this case,

what information individuals contacted for reference checks provided about the Complainant (see Order F2013-50 at para 161). I do not believe that it extends to examining if the Public Body took enough information into account.

[para 25] The EPS states that the comments made about the Complainant's mental health are the officers' own opinions from the facts before them. It states that when officers came to believe that the Complainant's mental health had become an issue, they contacted the PACT unit precisely because diagnosing mental health issues is not within the officers' expertise or role. It states (initial submission at para. 49):

From the examples provided in paragraph 44 of these submissions, it is clear that the EPS officers considered the interactions (both past and present) and information provided by [the Complainant] and formulated their own opinions regarding whether the PACT Unit should be contacted. There is no suggestion that they were attempting to diagnose [the Complainant] or were relying solely on previous information reported by their colleagues during previous interactions in their assessment.

[para 26] Having reviewed the officers' notes, there appears no indication that the officers have recorded that the Complainant has been diagnosed formally; only that in their opinion her actions and allegations, including references back to past complaints, show an indication of a mental health concern. This is in contrast to Order F2021-03, in which the adjudicator noted that an opinion recorded by an officer was recorded as if it were a fact or had a factual basis and might subsequently be relied upon as factual (at paras. 50-60).

[para 27] In subsequent interactions between the Complainant and EPS, there is no indication that officers relied on previously noted opinions regarding the Complainant's mental health as facts versus opinion. From the records before me, the PACT unit (or a crisis unit) was first contacted by an EPS officer in February 2015. In some subsequent officer notes, the PACT unit (and/or a crisis unit) was contacted by the responding officers and in some instances it was not. While I understand the Complainant's concern that EPS' response to her has been unfairly biased by the referral to the PACT unit, the facts do not support that conclusion.

[para 28] As I have indicated, my role is not to question how officers perform their policing function. My role is to determine whether it took reasonable steps to ensure the accuracy and completeness of personal information in making a decision about the Complainant. There is nothing before me that indicates the EPS officers considered inaccurate information in making any decision about the Complainant.

[para 29] The Complainant points to a particular officer's notes that she states are inaccurate. The notes state that the Complainant wrote a 15-page statement describing how a former acquaintance had compromised her email, phone and mail. The Complainant states that her statement does not mention any of these things. The Complainant states that this information continues to be used by the EPS "when they decide to engage non-consensual psychiatric interventions" (page 3 of letter attached to request for inquiry form).

[para 30] I have reviewed the named officer's notes; part of the notes summarize a verbal conversation the Complainant had with the officer. In the summary of the conversation, the officer notes that the Complainant told her that "she [the Complainant] has documented many events (15pgs) where she thinks that her phone, email, mail has been compromised..." (page 8 of FOIP documents, Exhibit "B" of EPS initial submission). While the officer's reference to "15pgs" is oddly placed, the remaining sentence seems to refer to the Complainant's verbal statement to the officer – that she documented many instances of her phone/email/mail being compromised – rather than to what the Complainant wrote in her statement (the Complainant is correct that this information is not included in her 15-page statement). In any event, the Complainant's actual statement is contained in her file. In other words, even if this officer's notes are not particularly clear on this point, the Complainant's actual (accurate) statement is available on her file.

[para 31] In her request for inquiry, the Complainant states that a named officer, apparently on the PACT unit, "has written in the police file that the Edmonton Police Service will continue to use the inaccurate and incomplete information they have on file about my mental health and plan to one day try to commit me against my will using a Form 10" (at page 4 of letter attached to request for inquiry form). The only mention of a "Form 10" in the named officer's notes, or any other notes provided to me for this inquiry, is the sentence "At this time, grounds did not exist to form 10 [the Complainant]." This does not support the Complainant's allegation.

Completeness

[para 32] In her initial complaint, the Complainant states (emphasis mine):

I can appreciate that EPS officers are encouraged to contact CUSST, PACT or ICPACT if they have concerns. However, each time I spoke to the police officers there was no evidence that I was a danger to myself or others, and no signs that I was experiencing a severe psychiatric crisis. For example, I knew my name, I was oriented in place and time, I was employed and working full-time, I was dressed appropriately and my hygiene was good. Members of the PACT team told the Edmonton Police Service on more than one occasion that they did not see value to me as their client to receive any follow up from them or any signs that supported the Edmonton Police Services concerns, however the outcome of the officers' consultations with PACT were not recorded in the police files and as a result the records retained by the Edmonton Police Service and read by subsequent officers is incomplete. Subsequent officers indicate in their narratives that they decided how to proceed based on the police files that stated the officers had concerns about my mental health and PACT was "involved." It has been incredibly upsetting to witness this happening during an already stressful and difficult time. I am not benefitting from the Edmonton Police Service's actions, and their actions are only hurting my mental health.

[para 33] The Complainant also argues that the EPS' record are incomplete as the officers do not include all information available to them. The information the

Complainant believes ought to be included in the records is that the PACT unit members determined that there would be no value in assessing the Complainant.

[para 34] From the information before me, it seems that the officers who make a referral to the PACT unit may remain involved in the initial investigation, or may not (if that investigation is closed). If not, there is no reason for the officers to follow up with the PACT unit to determine whether the individual interacting with the EPS in fact has a mental health concern that the PACT unit could address. In any case, it may not be appropriate for a PACT unit member to report back to the investigating officer the mental health assessment of the individual at issue, if the results of the assessment isn't necessary for the investigation. Such assessments could include sensitive health information about the individual referred to that unit, including mental health diagnoses. I have only minimal information about the PACT unit and how it interacts with EPS officers who are not part of that unit. From the records of EPS officer notes provided with the EPS' submissions, and the records from AHS provided by the Complainant, it appears that PACT unit members (whether from EPS or AHS) discussed referrals made by non-PACT unit EPS officers at the time the referral is made, and only to discuss the context of the referral. From the records before me, any written assessment of the Complainant's mental health later made by PACT unit members (whether EPS or AHS members) is limited to the notes of those members. The assessment does not appear to be shared with the EPS officer who made the referral. Presumably, this is to avoid over-sharing health information – in other words, to ensure health information of individuals is used/disclosed on a need-to-know basis.

[para 35] I have noted above that the EPS officers dealing with the Complainant have not always referred her to the PACT unit even if the previous officer did. From the records before me, it appears that a referral to the PACT unit at one time does not necessarily mean that any subsequent interaction with the same individual will end in a referral to the PACT unit, whether or not the PACT unit members treat the individual. Each determination regarding the involvement of the PACT unit appears to be made on the facts before each officer.

[para 36] Given the above, I cannot conclude that the EPS officers' notes are incomplete to the extent that they do not record the PACT unit members' (EPS or AHS) assessments.

[para 37] I find that the EPS did not fail to meet its obligation under section 35(a) of the Act.

2. Did the Public Body use the Complainant's personal information? If yes, did it do so in compliance with or in contravention of section 39 of the Act?

[para 38] The Complainant states that the EPS used and disclosed her personal information when various members referred her file to the PACT unit. In her request for inquiry, the Complainant states that she did not consent to being contacted by the PACT unit and did not wish to speak with anyone from that unit.

[para 39] The EPS states that in some cases, a referral to a PACT unit is a use, rather than a disclosure. It states (initial submission, at para. 56):

In some instances when an EPS member requests assistance from the PACT Unit, information may be shared with the EPS PACT Unit member, and not the AHS Pact Unit member. In this circumstance, the sharing of information constitutes a “use” and not a “disclosure.”

[para 40] It further states that in some cases, information is shared with an EPS member of the PACT unit as well as an AHS member. The EPS states that this would constitute both a use and a disclosure.

[para 41] I agree that when an EPS member refers an individual or file to an EPS PACT unit member, this referral as a use of personal information about the relevant individual. However, if this referral is better characterized as a disclosure, I will consider that possibility in the next section of this Order.

[para 42] A public body may use personal information with the consent of the individual it is about. However, that is not the only situation in which a public body can use personal information under the FOIP Act. A public body’s use of personal information is governed by section 39 of the Act. The relevant portions of section 39 of the Act state:

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,

(b) if the individual the information is about has identified the information and consented, in the prescribed manner, to the use, or

(c) for a purpose for which that information may be disclosed to that public body under section 40, 42 or 43.

...

(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.

[para 43] The EPS describes the PACT unit as follows (initial submission, at paras. 36-39):

The PACT Unit is a joint partnership between employees of two separate public bodies: Alberta Health Services (AHS) (Urgent Services) and the EPS. It is not a separate and independent legal entity.

The PACT Unit is a co-responding, multi-disciplinary unit consisting of teams of EPS members and AHS mental health therapists from Access 24/7, Addiction and Mental

Health. The AHS mental health therapist and EPS PACT Unit member work together collaboratively to assess the client's mental health needs and determine the appropriate action to support their client.

EPS members who seek assistance from the PACT Unit provide only pertinent personal information and context necessary to the PACT Unit in order for PACT Unit members to make a determination regarding whether to intervene with an identified individual.

When an EPS member has concerns with respect to a person's mental health, they may seek assistance from members of the PACT Unit, who have discretion as to whether any next steps are actually warranted. When an EPS member contacts the PACT Unit, there is no certainty that the client will even be contacted by a member of the PACT Unit or impacted in any way.

[para 44] When a PACT unit member receives a referral from an EPS officer, the PACT member assesses the referral to determine whether further action should be taken to assist the individual.

[para 45] The EPS states that the Complainant's personal information was collected for the purpose of investigating the complaints she made to the EPS. It states that the use of the Complainant's personal information by EPS PACT unit officers was authorized under section 39(1)(a), as "it was part of the continuum of the investigative process" (initial submission at para. 61).

[para 46] From the submissions before me and the purpose of the PACT unit as described to me, PACT unit members determine whether an individual may require mental health intervention. The primary purpose of the PACT unit does not appear to be to investigate the complaint or allegations made by the individual, especially where a non-PACT EPS officer was already assigned to investigate the initial complaint.

[para 47] It appears that an EPS officer responding to the complaints will make a determination as to how to proceed with the complaint. Whether or not there is action the officer can take to address the complaint, the officer may (or may also) make a referral to the PACT unit if they believe the individual may be in need of mental health intervention.

[para 48] The use of the Complainant's personal information by an EPS PACT unit member would be authorized if that use is *consistent* with the purpose of the collection, even if it is not *the same* purpose.

[para 49] Section 41 defines what constitutes a "consistent purpose" under section 39(1):

41 For the purposes of sections 39(1)(a) and 40(1)(c), a use or disclosure of personal information is consistent with the purpose for which the information was collected or compiled if the use or disclosure

(a) has a reasonable and direct connection to that purpose, and

(b) is necessary for performing the statutory duties of, or for operating a legally authorized program of, the public body that uses or discloses the information.

[para 50] From the submissions, I understand that EPS officers responding to one or more of the Complainant's complaints had concerns about the Complainant's mental health. These concerns were based on the content of the Complainant's complaints.

[para 51] The Complainant indicates that she believes the officers responding to her complaints to the EPS did not have sufficient reason to refer her to the PACT unit. Questions such as "was it reasonable for the officer to have a concern about the Complainant's mental health?" and "was this an appropriate circumstance to refer the Complainant to the PACT unit?" are questions about how the officers performed their duties. They are akin to concerns about how an officer conducted an investigation (e.g. whether an officer ought to have questioned a certain individual or followed up on a particular suspicion). As discussed previously in this Order, that type of concern does not fall within the purview of the Commissioner (or within mine, as her delegate).

[para 52] The question or concern that falls within the purview of the FOIP Act is whether the investigating officers had authority to use the Complainant's personal information to make a referral to the PACT unit, and whether the PACT unit officers had authority to use the personal information to assess the referral. In my view, they did.

[para 53] With respect to the investigating officers, they collected the Complainant's personal information when they looked into the complaints she had made about being harassed by certain individuals. In some cases, the officers had concerns that the Complainant might be seeing patterns that weren't there, or that certain situations didn't have the meaning she believed they did. The officers had some suspicion – rightly or wrongly – that the Complainant might need mental health services. As the EPS partners with AHS to deal with situations in which individuals may need urgent mental health intervention, the officers referred the Complainant and/or her file to the PACT unit, to assess whether she, in fact, needed those services.

[para 54] I have a copy of the EPS PACT officer's notes from one instance in which a referral to PACT was made. Those notes indicate that the EPS PACT officer assessed the Complainant's mental health in consultation with an AHS PACT member, and also looked into the harassment allegations made by the Complainant. Possibly the PACT officer's queries into the Complainant's allegations were made to assess the validity of those allegations in order to assess the Complainant's mental health. The notes indicate that the harassment allegations were not investigated further, due to a "lack of grounds" (page 9 of FOIP records, Exhibit "B" of EPS initial submission).

[para 55] It seems clear that the EPS PACT officer's involvement can be characterized as a continuation of the EPS' response to deal with the Complainant's complaint. I accept that using the Complainant's personal information for the purpose of referring her to the PACT unit, has a reasonable and direct connection to the purpose for which it was collected (responding to her harassment complaint).

[para 56] Order F2008-029 states that “necessary” in section 42(b) does not mean “indispensable”. The Director of Adjudication states in that Order (at para. 51):

In the context of section 41(b), I find that “necessary” does not mean “indispensable” – in other words it does not mean that the CPS could not possibly perform its duties without disclosing the information. Rather, it is sufficient to meet the test that the disclosure permits the CPS a means by which they may achieve their objectives of preserving the peace and enforcing the law that would be unavailable without it. If the CPS was unable to convey this information, the caseworkers would be less effective in taking measures that would help to bring about the desired goals. Because such disclosures enable the caseworkers to achieve the same goals as the CPS has under its statutory mandate, the disclosure of the information by the CPS also meets the first part of the test under section 41(b).

[para 57] In that Order, the Calgary Police Service (CPS) was participating in a program with a non-profit organization. The facts of that case are similar to the fact here, and one issue in that inquiry was whether CPS officers had authority to disclose personal information to the non-profit organization for the purposes of that program. The Order confirms that the disclosure by the CPS to the non-profit organization it partnered with was necessary for the CPS to participate in that program, which was a legally-authorized program of the CPS (at para. 52).

[para 58] I agree with and adopt the analysis in that Order. In this case, I accept that the PACT program is a program of the EPS, in conjunction with AHS. Following Order F2008-029, I find that the use of the Complainant’s personal information to refer her to the PACT unit was authorized under sections 39(1)(a) and 41.

[para 59] The use of the Complainant’s personal information by the EPS PACT unit officers was authorized for the same reason.

[para 60] Section 39(4) states that a public body may use personal information only to the extent necessary to carry out the stated purpose. From the EPS records provided to me in the submissions, there is no indication that EPS officers used more personal information than was necessary. The personal information used to make the referral to the PACT unit, and used by EPS PACT unit officers, consisted of the investigating officers’ observations when looking into the Complainant’s complaints of harassment, as well as the witness statements made by the Complainant. This information provided necessary context for the referral.

3. Did the Public Body disclose the Complainant’s personal information? If yes, did it have authority to do so under sections 40(1) and 40(4) of the Act?

[para 61] The Public Body acknowledges that because some of the PACT unit members are employees of AHS, referring the Complainant to the PACT unit involving the AHS members was a disclosure of the Complainant’s personal information to AHS.

[para 62] I have also stated that referring the Complainant to the EPS PACT unit officers might be characterized as a disclosure (although it is more likely a use).

[para 63] In her request for inquiry, the Complainant states (at page 4 of attached letter):

Regarding the disclosure of my personal information, I told the Edmonton Police Service that I did not consent to speaking to PACT and this was documented by [a named EPS officer] in EPS File #[...]. The Edmonton Police Service has not at any time as for my consent to share my personal or health information with Alberta Health Services.

[para 64] Similar to the use of personal information, a public body may disclose personal information with the consent of the individual it is about. However, that is not the only situation in which a public body can disclose personal information under the FOIP Act. A public body's disclosure of personal information is governed by section 40 of the Act. The relevant portions of section 40 of the Act state:

40(1) A public body may disclose personal information only

...

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

...

(h) to an officer or employee of the public body or to a member of the Executive Council, if the information is necessary of the performance of the duties of the officer, employee or member,

(i) to an officer or employee of a public body or to a member of the Executive Council, if the disclosure is necessary for the delivery of a common or integrated program or service and for the performance of the duties of the officer or employee or member to whom the information is disclosed

...

(4) A public body may disclose personal information only to the extent necessary to enable the public body to carry out the purposes described in subsections (1), (2) and (3) in a reasonable manner.

[para 65] The Public Body argues that the PACT program is a common and integrated program, such that the disclosure of the Complainant's personal information to PACT unit members was authorized under section 40(1)(i).

[para 66] The Public Body notes that the Act does not define what constitutes a common and integrated program. It cites *FOIP Bulletin No. 8, Common or Integrated Programs or Services*, published by Service Alberta, which states:

A "common or integrated program or service" means a single program or service that is provided or delivered by two or more public bodies. The program or service may have

several distinct components, each of which is provided or delivered by a separate public body. These components together comprise the common program or integrated service.

Each public body partner must be integral to the program or service. For example, a nursing practicum program requires the participation of both the post-secondary institution, and the health care body; the program would not function without the services of each body. In contrast, an arrangement where several public bodies contract with the same IT service provider is *not* a common or integrated program or service.

Public bodies may have clients in common, but that factor alone does not make a program or service common or integrated.

The following attributes of a program or service tend to indicate that a program or service is a common or integrated program or service for the purposes of section 40(1)(i) of the FOIP Act:

- legislative authority for the bodies to work together;
- common goals expressed in the program description or business plan;
- a formal agreement between public bodies, with proper authorization, explaining their roles and how the components fit together;
- terms of reference authorized or approved by heads of the public bodies;
- joint planning between the public bodies;
- collaboration or coordination in delivery in order to achieve common objectives or goals; and
- clear delineation of services being jointly delivered from those that are not.

Not all of the above attributes would be required in order for a program or service to be considered to be common or integrated. Nor is this an exhaustive list of all attributes that might be considered. But the presence of several of these attributes together would assist in that conclusion

[para 67] The EPS states that EPS and AHS members work together in the PACT unit to provide a multi-disciplinary service. It states that there exists a Memorandum of Understanding/Information Sharing Agreement between it and AHS, which provides guidance on sharing information between PACT unit members from EPS and AHS.

[para 68] The EPS did not provide any part of that Memorandum/Agreement, or details about what it says. The EPS did not provide any additional detail regarding how the PACT unit is a common or integrated program for the purposes of section 40(1)(i) of the FOIP Act.

[para 69] Aspects of the PACT program indicate that it may well be a common or integrated program; however, I cannot make that conclusion without additional information. Therefore, I cannot conclude that the disclosure of the Complainant's personal information was authorized under section 40(1)(i).

[para 70] The EPS states that the PACT unit members from AHS are “mental health therapists from Access 24/7, Addiction and Mental Health” (initial submission at para. 69). AHS’ website states²:

Access 24/7 provides a range of urgent and non-urgent addiction and mental health services including service navigation, screening, assessment, referral, consultation, crisis intervention, outreach and short term stabilization.

[para 71] The submissions indicate that the purpose of the AHS members is to assess whether mental health services are needed, and to provide them if required. As one might expect, the EPS members provide the policing aspect of the service and not the health aspect.

[para 72] I accepted that the referral to the PACT unit was a continuation of the EPS’ response to the Complainant’s harassment complaints, and that the use of her personal information was consistent with the purpose for which it was collected.

[para 73] In order for the EPS members of the PACT unit to determine whether the Complainant was in need of mental health services, the Complainant’s personal information would have to be disclosed to the AHS members of the PACT unit. For the same reasons I gave regarding section 39(1)(a), I find that the disclosure of the Complainant’s personal information to the AHS PACT unit members was for a use consistent with the purpose for which it was collected, and was authorized under section 40(1)(c) of the Act.

[para 74] If the investigating officers’ referral of the Complainant to the EPS members of the PACT unit resulted in a disclosure of her personal information, rather than a use, I find that disclosure was authorized for the same reasons.

[para 75] The Complainant has raised the point that she repeatedly informed EPS officers that she did not require services from the PACT unit, and that PACT unit members have concluded in past referrals that she did not require them. Therefore, she argues that the EPS should not have referred her to the PACT unit on subsequent occasions.

[para 76] I understand the Complainant’s point. However, as discussed earlier, whether the officers were correct to refer her to the PACT unit is a question of how the officers responded to her complaints, which is not within the purview of the FOIP Act.

[para 77] I find that the EPS has authority to disclose the Complainant’s personal information to the PACT unit members.

IV. ORDER

[para 78] I make this Order under section 72 of the Act.

² <https://www.albertahealthservices.ca/findhealth/Service.aspx?id=1077952&serviceAtFacilityID=1122569>

[para 79] I find that the EPS fulfilled its duty under section 35(a) of the FOIP Act.

[para 80] I find that the EPS had authority to use and disclose the Complainant's personal information.

Amanda Swanek
Adjudicator