

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2023-20

May 16, 2023

**FORESTRY, PARKS AND TOURISM,
SERVICE ALBERTA AND RED TAPE REDUCTION,
CHILDREN'S SERVICES &
PUBLIC SAFETY AND EMERGENCY SERVICES**

Case File Numbers 009636, 009637, 009639, 009640

Office URL: www.oipc.ab.ca

Summary: The Complainant complained that several public bodies collected, used and disclosed his personal information in contravention of the *Freedom of Information and Protection of Privacy Act* ("FOIP" or "the Act") when emails he sent to the public bodies were redirected to an employee of Justice (now Public Safety and Emergency Services) without the Complainant's knowledge.

The Commissioner named Service Alberta, Children's Services, Agriculture and Forestry as responding public bodies, in addition to Public Safety and Emergency Services (the Public Bodies).

The Adjudicator found that the Public Bodies had collected, used, and disclosed the Complainant's personal information in compliance with Part 2 of the FOIP Act.

Statutes Cited: **AB:** *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss 1, 33, 34, 39, 40, 41, 72; *Occupational Health and Safety Act*, S.A. 2020, c O-2.2 ss. 1, 3

Orders Cited: **AB:** Orders F2008-029; F2020-27

I. BACKGROUND

[para 1] The Complainant complained that several public bodies collected, used and disclosed his personal information in contravention of the *Freedom of Information and Protection of Privacy Act* ("FOIP" or "the Act") when emails he sent to the public bodies were redirected to an employee of Justice (now Public Safety and Emergency Services) without the Complainant's knowledge.

[para 2] The Commissioner assigned a senior information and privacy manager to investigate and attempt to settle the matter. The Commissioner named Service Alberta and Red Tape Reduction, Children's Services, Agriculture and Forestry (now Forestry, Parks and Tourism) as responding public bodies, in addition to Public Safety and Emergency Services. (I will refer to these public bodies as "the Public Bodies" in this order.)

[para 3] At the conclusion of the mediation process, the Complainant requested an inquiry. The Commissioner agreed to conduct a written inquiry and delegated her authority to conduct it to me. Public Safety and Emergency Services made submissions on behalf of the Public Bodies.

II. ISSUES

ISSUE A: Did the Public Bodies collect the Complainant's personal information?

ISSUE B: If yes, did it do so in compliance with section 33 of the Act?

ISSUE C: Did the Public Bodies collect the Complainant's personal information directly or indirectly? If indirectly, did it do so in compliance with section 34 of the Act?

ISSUE D: Did the Public Bodies use the Complainant's personal information? If yes, did it do so in compliance with section 39 of the Act?

ISSUE E: Did the Public Bodies 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

ISSUE A: Did the Public Bodies collect the Complainant's personal information?

[para 4] The Complainant's complaint is that his correspondence with the Public Bodies was redirected to an employee from Justice (now Public Safety and Emergency Services).

[para 5] From the evidence before me, I understand that the following occurred:

- The Complainant alleged that his car was damaged by another car. The owner of the car initially agreed to pay him for the damage. Subsequently, after taking legal advice from her band council and speaking with the RCMP, the owner of the car wrote the Complainant to inform him that she would not pay any more money to the Complainant. The car owner informed the Complainant that she had been told that the way the Complainant was seeking payment was “suspect”.
- The Complainant then emailed the driver’s band council and the Ministry of Children’s Services on November 24, 2017. The email contained allegations that the car owner had engaged in criminal conduct and “drunkenness”. He alleged that the band council had encouraged a breach of a “restitution agreement” he claimed to have entered with the car owner. He alleged that the car owner’s child was in need of intervention, and for this reason, copied the Minister of Children’s Services in the email. The email threatened legal action against the band council for “unlawful interference with legal relations”.
- On June 18, 2017, the Public Bodies had decided to redirect the Complainants’ emails to Public Safety and Emergency Services for review to determine whether the emails should be forwarded to employees or representatives of the Government of Alberta for action.
- The Complainant’s email containing his claim that the other driver’s child was in need of intervention was not received by Children’s Services, but was instead redirected to an employee of Justice (now Public Safety and Emergency Services) who reviewed the email and replied to the Complainant and the band council. The reply explained how to report children in need of intervention to Children’s Services. The Complainant’s email was not provided to the Minister of Children’s Services.
- The Complainant requested information about a woodlot from Forestry on November 30, 2017. He discovered that this email request had been redirected to Justice (now Public Safety and Emergency Services) when a representative of Forestry asked him why his emails were being redirected to that public body.
- The Complainant made a complaint to the Commissioner regarding the redirection of his emails, including the email he had written to the Minister of Children’s Services and the email he had written to Forestry.

[para 6] The Complainant takes the position that Public Safety and Emergency Services collected his emails sent to other Government of Alberta Ministries and branches without authority to do so. He argues that redirecting his emails is an “interception” within the terms of section 184(1) of the *Criminal Code*, RSC 1985, c. C-46 and is a “reckless and willful criminal act”. I will not address this allegation as my jurisdiction extends only to making decisions regarding complaints under the FOIP Act.

[para 7] The FOIP Act applies to the collection, use, and disclosure of “personal information”. Section 1(n) of the FOIP Act defines “personal information”. It states:

I In this Act,

- (n) “personal information” means recorded information about an identifiable individual, including*
 - (i) the individual’s name, home or business address or home or business telephone number,*
 - (ii) the individual’s race, national or ethnic origin, colour or religious or political beliefs or associations,*
 - (iii) the individual’s age, sex, marital status or family status,*
 - (iv) an identifying number, symbol or other particular assigned to the individual,*
 - (v) the individual’s fingerprints, other biometric information, blood type, genetic information or inheritable characteristics,*
 - (vi) information about the individual’s health and health care history, including information about a physical or mental disability,*
 - (vii) employment or criminal history, including criminal records where a pardon has been given,*
 - (viii) anyone else’s opinions about the individual, and*
 - (ix) the individual’s personal views or opinions, except if they are about someone else [...]*

[para 8] The Public Bodies concede that a representative of Public Safety and Emergency Services collected the Complainant’s personal information when the Complainant’s emails were redirected to it. They argue that the collection was authorized by the FOIP Act. They state:

The Public Body takes the position that it did collect personal information of the Complainant when emails were redirected to Provincial Security Intelligence Office (PSIO) (formally referred to in the Inquiry Submissions as PSIOCS).

The definition of personal information in section 1(n) of the *Freedom of Information and Protection of Privacy Act* (FOIP Act) is non-exhaustive and does not define personal information in its entirety. The Public Body considers the name, personal email address and personal opinions of the complainant to be the personal information collected. This is distinct from Order F2020-30 where a similar email redirection was found not to constitute a collection as the Complainant [in Order F2020-30] was acting as a representative of third party clients, rather than in his personal capacity.

[para 9] As the Public Bodies confirmed that Public Safety and Emergency Services collected the Complainant's personal information in the Complainant's emails, I turn now to the question of whether this collection was authorized by section 33 of the FOIP Act.

ISSUE B: If yes, did it do so in compliance with section 33 of the Act?

[para 10] Section 33 of the FOIP Act sets out the powers of public bodies to collect personal information. It states:

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.*

[para 11] The Public Bodies state that Public Safety and Emergency Services is responsible for the safety of Government of Alberta employees, and it had been decided in 2015, and again in 2017, that redirecting the Complainant's emails served this purpose. The Public Bodies take the position that the redirect was put in place to ensure that communications from the Complainant were not inappropriate or threatening.

[para 12] As the decision to redirect the Complainant's emails was put in place prior to the redirection of the emails giving rise to the complaint, I asked the Public Bodies for evidence regarding the decision to redirect his emails.

[para 13] The Public Bodies provided the affidavit evidence of the employee who redirected the Complainant's emails. The affidavit states:

The PSIO is responsible for ensuring the security of Government of Alberta staff, infrastructure and assets. In respect of protecting Government of Alberta staff, the PSIO is responsible for protecting staff from both physical and psychological harm.

In particular, the PSIO is often required to employ management strategies to protect staff from harassment, unreasonable demands, or abusive, demeaning, or defamatory language.

The PSIO has specific policies in place to deal with

- a. Individuals known to submit nuisance and habitual complaints
- b. Individuals known to adhere to an anti-authority or anti-government ideology, or
- c. Individuals who are at a high risk to commit violence, verbal or written threats, harassment or inappropriate communications.

In particular, the PSIO is responsible for implementing management strategies in a range of security circumstances, including, but not limited to, situations where individuals

- a. Persistently pursue complaints on issues that are baseless in fact; have already been addressed; or have no reasonable expectation of a successful resolution;
- b. Make groundless complaints about government staff and demanding to have them disciplined, replaced or dismissed;
- c. Inappropriately use previously raised grounds and issues in subsequent complaints; and
- d. Relentlessly pursue or initiate nuisance complaints with multiple Government of Alberta authorities.

Where individuals display this behaviour, PSIO is responsible to employ management strategies in accordance with its policies, and selecting responses proportionate to behaviour. One of these management strategies is email redirection.

This management strategy is used where individuals send ongoing emails that may be threatening, harassing, or disturbing in nature.

Where this is the case, PSIO will respond on behalf of GoA or liaise with other business areas to provide information to the individual subject to the redirection.

Where the nature of the communication is appropriate, PSIO will allow the redirected email to proceed to the originally intended recipient.

I (i) have direct knowledge of or (ii) have been advised and reasonably believe that:

- a. The Complainant was placed on an e-mail redirection on June 8, 2017.
- b. This decision was made because the PSIO has determined that the Complainant:
 - i. harassed employees on numerous occasions by demanding employees be disciplined, reprimanded, or terminated;
 - ii. has been pursuing already resolved complaints past the point of reason or reasonable prospect for success;
 - iii. took actions that had a significant detrimental effect on the mental health and wellbeing of a number of employees of the Government of Alberta; and
 - iv. interfered with ordinary working conditions of staff.
- c. The behaviour described above has been occurring since 2015.
- d. Additional management strategies have been utilized in response to increases in the frequency and/or severity of the Complainant's behavior.
- e. The Complainant remains on a communication protocol in respect of Government of Alberta staff.

[para 14] The Public Bodies' affiant states that the decision to redirect the Complainant's emails to Public Safety and Emergency Services was made on June 8, 2017. The Public Bodies' affiant also states that a decision was made that the

Complainant's communications subjected employees to harassment and interfered with employee working conditions.

[para 15] The Public Bodies argue that the redirection of the Complainant's emails, and the personal information they contain, is authorized by section 33(c). They state:

Section 33(c) of the FOIP Act specifically permits a public body to collect personal information when the information relates directly to and is necessary for an operating program or [activity] of the public body.

In this case the Complainant's personal information was collected by the PSIOCS under section 33(c) of the FOIP Act.

PSIOCS's role involves providing corporate security services and related guidance or administration to GoA departments. PSIOCS is responsible for ensuring the personal safety of GoA employees and ensuring safe and fair access to GoA resources. This includes a responsibility for protecting the security and integrity of government programs and providing security for government buildings, employees, the judiciary, and members of government.

The role of PSIOCS is unique in the sense that its role is not restricted to JSG as a single public body but is responsible for extending its security services to all public bodies that are part of the GoA.

As with all other employers in the province, the GoA is subject to a variety of legislation including the Occupational Health and Safety Act (OHS Act), Occupational Health and Safety Code (Code) and related policies. The purpose of the OHS Act is stated in section 2 [Attachment 1] as:

- a. (the promotion and maintenance of the highest degree of physical, psychological and social well-being of workers,
- b. to prevent work site incidents, injuries, illnesses and diseases,
- c. the protection of workers from factors and conditions adverse to their health and safety,

This requires employers to ensure the health and safety of their employees and employees to take reasonable care to protect the health and safety of their colleagues and co-operate with the employer for the purposes of protecting their health and safety and that of their colleagues.

Part 27 of the Code [Attachment 2] establishes that workplace violence and harassment are considered to be a hazard. Section 390 of the Code requires employers to develop and implement violence and harassment prevention plans, policies, and procedures respecting potential workplace violence and harassment.

In accordance with the OHS Act and Code, the GoA has developed the Occupational Health and Safety Directive.

According to this policy, workplace violence is defined as the "threatened, attempted, or actual conduct of a person that causes or is likely to cause physical injury."

More specifically, page 88 of this policy specifically states that "The early recognition of the potential for workplace violence is critical to prevention of incidents. The Alberta Public Service has implemented measures to prevent exposure to and reduce the risk of workplace violence while employees carry out their responsibilities."

Page 92 of this policy states that "inappropriate behavior is often a warning sign of potential hostility or violence. When left unchecked, it can escalate to higher levels" and indicates that individuals who engage in specific behaviors should be reported.

Workplace violence or harassment towards a GoA employee is unacceptable, whether by the public or by co-workers, and includes incidents or potential incidents of violence by the public to GoA employees. The PSIOCS plays a key role in established to protect employees of all GoA public bodies from workplace violence and harassment.

Redirecting emails for review by PSIOCS is a strategy used to evaluate and mitigate risks to GoA employees, programs, and services, and ensure appropriate use of GoA resources. This management of potential security issues or harassing requests relates to and is necessary for the operation of all affected public bodies.

[para 16] The Public Bodies argue that Public Safety and Emergency Services is responsible for ensuring the safety of Government of Alberta employees and addressing and mitigating the risk of harassment in the workplace. If an individual's communications with Government of Alberta employees could reasonably be perceived as harassing, the individual's email communications may be redirected to Public Safety and Emergency Services for review. Public Safety and Emergency Services may forward the email for response by the employee if it considers the email not to be harassing or otherwise harmful; if it determines the email is harassing or could potentially result in psychological harm to an employee, representatives of Public Safety and Emergency Services may respond instead of the employee.

[para 17] The Complainant objects to the affidavit evidence of the Public Bodies as inadequate and failing to provide sufficient particulars. While I do not disagree that the Public Bodies' evidence does not always ground its arguments, I note that the submissions and evidence of the Complainant corroborate the Public Bodies' position.

[para 18] The Complainant submitted an email dated November 14, 2017 written to him by the affiant. In this letter, the affiant states:

Having discussed this matter with the employees at the Lethbridge Courthouse, they were simply intimidated by you and felt threatened, and that is the only reason why sheriffs were summoned to the area. Although the staff were empathetic towards you as a victim of a motor vehicle collision, the behaviour you exhibited when the name search you requested could not be found caused them to respond in the manner they did, which I unequivocally support. Although this may seem totally incongruous to you, we have had some instances where customers have become unnecessarily fixated on our employees, subjecting them to querulous behaviour, racist or inappropriate remarks, vexatious complaints, legal actions, criminal harassment, social media stalking, and defamation, just to name a few. Although I cannot speak to the sense of frustration you experienced at the courthouse, later referencing our employees as obese and unkempt was not only inappropriate, but also served to reinforce the initial perception our employees formulated with regard to your behaviour.

Finally, I would like to emphasize that we, as public service employees, do continuously strive to serve all Albertans in a fair and courteous manner. Although I am genuinely sorry that you may feel otherwise, I am available to discuss this matter further if you so desire. If, however, the crux of your complaint remains based primarily on the fact that two Government of Alberta employees simply refused to provide you their names because they felt threatened, then I shall consider this matter closed.

[para 19] I note, too, that the Complainant states, with regard to written statements he has made about employees of the Government of Alberta:

All of the statements I have made about the incompetence, negligence, corruption and criminality that I have alleged as being rife within Alberta Justice, the Alberta Crown Prosecution Service and the Alberta Sheriffs Branch, statements initially dismissed as the “product of paranoia”, wild, baseless and “hysterical accusations”, “defamatory” and “outrageous”, have all borne fruit, have now all been proven as true.

[para 20] While I would have preferred more evidence from the Public Bodies as to the conduct of the Complainant giving rise to decision to redirect his communications so that I could determine whether it was necessary for an operating program or activity to collect his personal information, I find that the evidence submitted by the Complainant supports finding that he referred to specific employees of the Government of Alberta as “obese” and “unkempt” because they were unable to locate the information he requested. Moreover, he confirms sending correspondence regarding the “incompetence”, “negligence”, “corruption” and “criminality” of employees of Alberta Justice, Crown Prosecution Services and the Sheriff’s Branch. For reasons I will expand further in my discussion of the *Occupational Health and Safety Act*, below, I agree with the Public Bodies that referring to employees as “unkempt” and “obese” is harassing. I also agree that repeatedly referring to employees as “criminal, incompetent, negligent, and corrupt” may also reasonably be viewed as harassing or threatening within the terms of the *Occupational Health and Safety Act*.

[para 21] The Public Bodies must provide services to the public while mitigating the risk of workplace harassment. The redirect policy is a means by which the Public Bodies may meet their obligations. I agree with the Public Bodies that section 33(c) authorizes the collection of the Complainant’s personal information by Public Safety and Emergency Services. Public Safety and Emergency Services is responsible for protecting Government of Alberta employees from harassment. Redirecting the Complainant’s emails is a reasonable and necessary step to protect employees from harassment as the Complainant’s communications have been harassing in the past.

ISSUE C: Did the Public Bodies collect the Complainant's personal information directly or indirectly? If indirectly, did it do so in compliance with section 34 of the Act?

[para 22] Section 34 of the FOIP Act requires public bodies to provide notice of the collection of personal information except in the circumstances it sets out. It states, in part:

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

[...]

*(n) the information is collected for the purpose of managing or administering personnel of the Government of Alberta or the public body
[...]*

[...]

[para 23] The Public Bodies argue with respect to the indirect collection of the Complainant's personal information:

The Public Bodies submit that section 34(1)(n) authorizes the indirect collection of personal information for the specific purpose of managing or administering personnel within the public bodies by identifying and assessing possible threats or harassment. This is supported by paragraph 18 of Order 2020-27, where the Adjudicator agreed that managing personnel under section 34(1)(n) may include such activities such as protecting employees from potential harassment in the workplace.

[para 24] In Order F2020-27, I found that protecting employees from potential harassment in the workplace was a purpose encompassed by section 34(1)(n) of the FOIP Act. I said:

As noted above, the Public Body states that it collected the Complainant's personal information for the purpose of managing or administering personnel. It was concerned that the Complainant was gathering information about its employees and decided to warn employees about this concern. Managing personnel may include such activities as protecting employees from potential harassment in their workplace. (Here, I do not mean to say that the Complainant actually intended to harass anyone, only that the Public Body had that concern, given that it understood him to be gathering information about employees.)

As I find that the Public Body collected the Complainant's personal information for the purpose of administering personnel, I find that it was entitled to collect the personal information indirectly, without notification to the Complainant.

[para 25] As noted above, I find that Public Safety and Emergency Services redirected the Complainant's emails for the purpose of mitigating the risk of harassment in the workplace. I also find that mitigating the risk of harassment is a means by which the Public Bodies manage personnel. To conclude, I find that the collection by Public Safety and Emergency Services without notice to the Complainant is authorized by section 34(1)(n) of the FOIP Act.

ISSUE D: Did the Public Bodies use the Complainant's personal information? If yes, did it do so in compliance with section 39 of the Act?

[para 26] Section 39 of the FOIP Act restricts the purposes for which public bodies may use personal information. It states:

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 27] The Public Bodies argue:

PSIOCS used the Complainant's personal information for the specific purpose of assessing whether the Complainant's emails pose a hazard to GoA employees, to determine the most appropriate way to respond, and to address any hazard. This was necessary to further the role PSIOCS fulfills in terms of ensuring corporate security and appropriate management of resources.

In some instances, the information in the emails was used to redirect them to the originally identified recipient. By way of example, the November 30, 2017, email from the complainant to the Department of Agriculture and Forestry was handled in this manner.

Where PSIOCS replied, the information in the email was used to provide a response to the Complainant's questions or concerns. The responses provided to the Complainant by PSIOCS included contact information for complaints or enquiries into certain matters. By way of example, PSIOCS replied to the Complainant's email to the Blood Tribe councillors and Department of Children's Services in this manner on November 26, 2017.

The respondents submit that the security processes and procedures put in place by the public bodies are necessary for the safe and effective fulfilment of the duties of employees. PSIOCS is responsible for providing security for all GoA public bodies. Accordingly, the redirection of these emails and subsequent management of PSIOCS would be authorized by both sections 39(1)(a) and (c) of the FOIP Act.

The Public Bodies submit that the Complainant's information was, as required by section 39(4) of the FOIP Act, used only to the extent necessary to enable the PSIOCS to carry out its purpose in a reasonable manner.

The intent of the redirect protocol is to not prevent an individual from contacting or communicating with the GoA or its employees. It is intended to ensure that the communications received are respectful, non-threatening, and have a specific legitimate purpose. Once a PSIOCS staff member determines the legitimacy of the email (ensuring it relates to programs and services provided by the intended department or individual), the Complainant's email is redirected to the appropriate program area or contact, or if appropriate, replied to directly. This process ensures the email redirection interferes with communication as little as reasonably possible.

[para 28] The Public Bodies argue that the Complainant's personal information was used for the same purpose for which it was collected – ensuring that employees could perform their duties safely and effectively.

[para 29] Section 41 of the FOIP Act states:

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.

A purpose in using personal information will be consistent with a public body's purpose in collecting information if the use has a reasonable and direct connection to the purpose of collecting the information and it is necessary for operating a legally authorized program of the public body.

[para 30] In Order F2008-029, the Director of Adjudication said the following regarding the application of section 41 of the FOIP Act:

I have already found that the disclosure at issue was for the same purpose as that for which the information was collected. I also find that disclosure to the caseworkers for their use was consistent with the purpose of law enforcement, policing, and reducing the incidence of domestic violence. The disclosure both had a reasonable and direct connection to the purpose of law enforcement, policing, and preservation of the peace and crime prevention, and it was necessary for the police to perform their statutory duties to the fullest extent possible. 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).

I also find that it is necessary for the CPS to disclose the information to the Affected Party to operate a legally-authorized program of the CPS. As described above, both the Affected Party's staff (the Domestic Violence Court Team), and the CPS, are part of a court program that consists of a specialized court housing a cross-disciplinary team. Such a program is legally authorized, in my view, because it helps to achieve the statutory objectives of the CPS. The goal of this program is to "ensure the court is aware of and has timely access to information and circumstances surrounding the criminal case before them", which "allows the court to make informed and appropriate decisions designed to mitigate the possibility of future abuse and violence". I find that information disclosures such as those at issue are necessary for the Affected Party's caseworkers to participate effectively in this program. Since the CPS is a participant in the program (which, in my view, is sufficient to satisfy the phrase "program of the CPS"), and since the effectiveness of the program would be enhanced by the effective participation of the Affected Party's caseworkers, I find the disclosures in this case met the terms of the second part of section 41(b). Again, I find that "necessary" in this context does not mean "indispensable", and is satisfied as long as the disclosure is a significant means by which to help achieve the goals of the program. As well, it is, again, not necessary to show that the incidents from which the present complaint arose were channeled through this program, because, assuming the program was operational, at the time the

information was collected there was a possibility that it would be so channeled, and it was therefore reasonable to collect the information for the purpose of this possible use.

[para 31] I agree with the foregoing analysis of section 41.

[para 32] The “use” of the information in this case consists of reading the Complainant’s emails and determining who should respond to them – the Public Body(s) to which it is addressed or the employee of Justice (now Public Safety and Emergency Services). If the employee determines the Public Body to whom the Complainant has written should respond, the email is directed to the Ministry for response; if not, the employee of Justice (now Public Safety and Emergency Services) will use the personal information in the email for the purpose of preparing a response to the Complainant.

[para 33] Section 3 of the *Occupational Health and Safety Act*, SA 2020, c O-2.2¹ states, in part:

3(1) Every employer shall ensure, as far as it is reasonably practicable for the employer to do so,

[...]

(c) that none of the employer’s workers are subjected to or participate in harassment or violence at the work site [...]

[para 34] “Harassment” is defined in section 1(n) of the *Occupational Health and Safety Act*, which states, in part:

I In this Act,

(n) “harassment” means any single incident or repeated incidents of objectionable or unwelcome conduct, comment, bullying or action by a person that the person knows or ought reasonably to know will or would cause offence or humiliation to a worker, or adversely affects the worker’s health and safety, [...]

[para 35] Section 3 requires employers, such as the Government of Alberta, to ensure that workers are not subjected to harassment. Harassment includes incidents of objectionable or unwelcome conduct or comments that may result in offence or humiliation to a worker.

[para 36] If an individual’s comments to employees are offensive or could reasonably result in the humiliation of an employee, an employer is expected by the *Occupational Health and Safety Act* to address the situation. The Government of Alberta (of which all the public bodies in this case are part) has addressed the situation by having the Complainant’s emails redirected to Justice (now Public Safety and Emergency

¹ The version of the Act at the time of events giving rise to the complaint also contains this provision.

Services) to be screened. In this way, the Government of Alberta ensures that it can provide the Complainant with the government services to which he is entitled, while protecting employees from harassment, as defined in the *Occupational Health and Safety Act*, as it is legally obligated to do.

[para 37] I find that section 39(1)(a) of the FOIP Act authorizes this use of the Complainant's personal information, as its purpose in using the information is consistent with its purpose in collecting the information. It collected the Complainant's emails, and the personal information they contain, for the purpose of ensuring that Government of Alberta employees are not harassed when the Complainant accesses government services. This purpose is consistent with its function of managing employees. Reviewing the email to determine who should respond to the Complainant's requests and how that should be done is directly connected with its purpose of managing employees and ensuring that they are not subject to harassment within the terms of the *Occupational Health and Safety Act*.

[para 38] The next question to consider is whether Public Safety and Emergency Services used only the personal information necessary for carrying out its purposes in a reasonable manner, in accordance with section 39(4).

[para 39] The Public Bodies state:

The Public Bodies submit that the Complainant's information was, as required by section 39(4) of the FOIP Act, used only to the extent necessary to enable the PSIOCS to carry out its purpose in a reasonable manner.

The intent of the redirect protocol is to not prevent an individual from contacting or communicating with the GoA or its employees. It is intended to ensure that the communications received are respectful, non-threatening, and have a specific legitimate purpose. Once a PSIOCS staff member determines the legitimacy of the email (ensuring it relates to programs and services provided by the intended department or individual), the Complainant's email is redirected to the appropriate program area or contact, or if appropriate, replied to directly. This process ensures the email redirection interferes with communication as little as reasonably possible.

[para 40] The Public Bodies state that Public Safety and Emergency Services uses the personal information in the Complainant's emails for the sole purpose of determining how it should address the Complainant's correspondence. It uses all the information in the email for the purpose of making this determination. As all of the information in the email is relevant to its determination as to how it should treat the email, I agree that the Public Safety and Emergency Services used the personal information in emails in compliance with section 39(4).

[para 41] For the foregoing reasons, I find that Public Safety and Emergency Services used the Complainant's personal information in compliance with section 39 of the FOIP Act.

ISSUE E: Did the Public Bodies 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 42] Section 40 prohibits a public body from disclosing personal information except in the circumstances it authorizes. It states, in part:

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 [...]

[...]

(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 43] The Complainant did not provide submissions on this point or explain what he considered to be the disclosure in this case. I note that the Public Bodies argue:

In respect of one email (dated November 24, 2017) to an explornet.com email address and specific Blood Tribe council members, the PSIOCS disclosed the Complainant's status of being [monitored] by the PSIOCS by virtue to the response coming from the Justicecc redirect email.

By way of context, this email appears to have followed from an August 2017 interaction between the Complainant and the Lethbridge courthouse staff. During this incident the staff felt sufficiently intimidated and threatened by the Complainant that they summoned Sheriffs to ensure no further escalation.

This incident at the Courthouse itself appears to have arisen as a continuation of an earlier interpersonal conflict between the Complainant and a third party.

In order to provide full context for this email, a redacted copy is attached [Attachment 3]. The Public Bodies note that the Complainant's submission did not include this full record. In particular, the earlier email to the third party and the subsequent email to the Blood Tribe Council members and Ministry of Children's Services demonstrate increasingly targeted behaviour, an aggressive pattern of language, written personal attacks, and repeated threats of legal action.

The November 24, 2017 email to the Ministry of Children's Services and Blood Tribe Council members were directly related to the third party with whom the Complainant had an interpersonal conflict prior to August 2017. The Complainant's email itself included an email he had sent to the third party earlier that day.

The respondents submit that section 40(1)(c) allows a public body to disclose information for a purpose consistent with its collection. As discussed above, PSIOCS collected the information in this case to fulfill its role in protecting the safety, security, and integrity of the GoA's programs and services.

In this instance, the Complainant closes his email by claiming to have "clear physical evidence of improper supervision" in respect of the third party and states "I expect that in light of the tragic death of the little native girl... , that the Alberta Ministry of Children's Services will be in contact with the Blood Tribe."

PSIOCS "replied to all" to ensure all correspondents on the November 24, 2017 email were made aware that the PSIOCS had provided guidance to the Complainant in respect of properly reporting cases of child neglect. This disclosure was reasonable to ensure all correspondents were aware that the complainant's expectation that the Ministry of Children's Services "will be in contact with the Blood Tribe" does not reflect messaging from the GoA. Investigations into child neglect are not threatened by private citizens or commenced based purely on unsolicited emails directly to the Minister of Children's Services. This clarification and redirection is necessary for and consistent with the PSIOCS' role of protecting the safety, security, and integrity of GoA personnel and programs.

[para 44] The Public Bodies argue that the Complainant's personal information was disclosed when the employee of Justice (now Public Safety and Emergency Services) emailed the Complainant to explain how to report issues to Children's Services, and copied all the individuals and representatives to whom the Complainant had addressed his correspondence. They concede that the fact that the Complainant was being "monitored" by Justice (now Public Safety and Emergency Services) could be inferred from this correspondence.

[para 45] The email the Public Bodies consider to disclose the Complainant's personal information was sent from an account named "justicecc.redirect". The "from" line indicates that the sender is a director of corporate security services. The subject line and content are as follows:

Re: [...] criminal conduct breach of contract

Allegations / suspicion of child abuse or children at risk can be reported to:

The police of jurisdiction, or by calling 310 0000 to get the telephone number of your local office or call the Child Abuse Hotline at 1 800 387 KIDS (5437) to speak with a caseworker.

After-Hours Teams are available for Albertans who need child intervention and family support services anywhere in Alberta. The number to call for after-hours response is: 1 800 638 0715. You will be prompted to press 1 if you are calling from Red Deer or south of Red Deer, and to press 2 if you are calling from north of Red Deer.

Although the Public Bodies seem to take the position that they disclosed the fact that the Complainant was being "monitored", I do not believe the fact that a representative of corporate security services responded, or that the email was sent from the Justice redirect account, convey such information about the Complainant. First, there is nothing before me to indicate that the Complainant was being "monitored". Second, if by "monitored" the Public Bodies mean "subject to an email redirect policy", information regarding the policy to redirect the Complainant's correspondence, and the reasons for it, are not contained in the email or inferable from it. It is true that the email comes from an account entitled "justicecc.redirect" but the reasons for this are not contained in the email. The fact that a representative from what was then the Ministry of Justice responded, also does not convey anything about the Complainant. A recipient could reasonably assume that a representative of Justice responded because that Ministry was the appropriate respondent in relation to the matters raised by the Complainant.

[para 46] I find that the email was sent for the purpose of responding to the Complainant's correspondence. The only information the email contains about the Complainant is his name and email address. It can also be inferred from the email that the Complainant had written an email entitled "criminal conduct breach of contract" and had raised issues regarding a child to which the then representative of Justice (now Public Safety and Emergency Services) was responding; however, the Complainant provided that information directly to the recipients of the correspondence when he wrote them.

[para 47] The information in the email was collected for the purposes of determining how the Government of Alberta would respond to the Complainant in a manner that protected employees from harassment; the information in the email was disclosed for the purpose of responding to the issues raised by the Complainant in his correspondence to the Government of Alberta and to the driver's band council. I find that this purpose is consistent within the terms of section 41 of the FOIP Act. As a result, I find that the disclosure is authorized by section 40(1)(c). I also find that the Public Bodies did not disclose any more personal information than was necessary for meeting their purposes in disclosing the information, as required by section 40(4).

IV. ORDER

[para 48] I make this Order under section 72 of the Act.

[para 49] I confirm that the Public Bodies collected, used, and disclosed the Complainant's personal information in compliance with Part 2 of the FOIP Act.

Teresa Cunningham
Adjudicator