

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER FOIP2026-25

July 14, 2026

TOWN OF OKOTOKS

Case File Number 028536

Office URL: www.oipc.ab.ca

Summary: The Complainant made a complaint to this office that the Town of Okotoks (the Public Body) collected, used and disclosed the Complainant's personal information in contravention of the *Freedom of Information and Protection of Privacy Act* (FOIP Act or the Act).

The Commissioner decided to conduct an inquiry into the matter.

The Adjudicator found that the Public Body had authority to collect and use the Complainant's personal information as it did. The Adjudicator found that the Public Body did not disclose the Complainant's personal information.

Statutes Cited: AB: *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 1, 33, 39, 40, 41, 72, *Peace Officer Act*, S.A. 2006, c. -3.5, ss. 14, 15

Authorities Cited: AB: Orders F2008-029, F2012-05, F2013-31, F2015-01, F2020-26

I. BACKGROUND

[para 1] At the relevant time, the Complainant was a peace officer employed by the Town of Okotoks (the Public Body) under the *Peace Officer Act*.

[para 2] On August 15, 2022, the Complainant submitted a complaint to this office alleging that the Town of Okotoks (the Public Body) collected, used, and disclosed the Complainant's personal information in contravention of the *Freedom of Information and Protection of Privacy Act* (FOIP Act). Specifically, the complaint states:

On July 26, 2022 I was suspended with pay by my employer the town of Okotoks due to an alleged public complaint regarding my interaction with a construction company. As a result, my employer looked at the body camera footage regarding that interaction. As a Community Peace Officer for Okotoks Municipal Enforcement, I am required to carry a body worn camera at all times which cannot be turned off while out of the office. When the allegations eventually arrived to me, I found my employer had looked through 2 hours of my body camera footage when there were two interactions in that two-hour period last maybe 20 minutes. This information was then provided to a third-party lawyer for review.

[para 3] The Complainant states that he received notice from a lawyer hired by the Public Body to investigate several allegations made against the Complainant. Some allegations the Complainant states were contained in this notice from the lawyer related to statements made by the Complainant to contractors working in the Complainant's neighbourhood and other conduct by the Complainant in relation to the contractors; some allegations related to sharing confidential information with Public Body employees who did not have a need to know the information; some allegations related to inappropriate comments made to Public Body employees; some allegations related to inappropriate use of authority that the Complainant shared with his spouse during a phone call.

[para 4] The Complainant states:

Allegations 5-9 have to do with personal private conversations in a private place with co-workers and my spouse. This is a clear violation of my privacy rights. Our body worn camera policy first states that officers must wear their body camera while on shift outside of the office and we are not permitted to turn it off. At all times our body worn cameras record audio and visual information. I don't have a choice to turn it off at any point unless I'm in the office or in a meeting. Otherwise, it must be on. As such, my camera was on.

...

Ultimately, my employer took the opportunity to go through substantially more body camera footage than they were permitted to. They looked at footage well beyond my interaction with the construction company and dove into a conversation I had on the phone with my spouse in the privacy of my work vehicle and a conversation I had with a co-worker in the private area of the municipal center in which the public is not entitled access. Not only did they view and transcribe this information, they also provided it to a third party lawyer in violation of the code of conduct. In addition, they violated my wife's privacy rights as well as my co-workers privacy rights. They had no business looking into my personal conversations much less using those conversations to create allegations against me.

[para 5] The Public Body provided information about the complaint that led to the investigation of the Complainant. The Public Body states that in July 2022, it received a public complaint from a contracting company (the Company) about the Complainant's conduct. The complaint alleged that the Complainant abused his position as a peace officer and engaged in unprofessional and harassing conduct toward the Company and its employees, taking place on July 21 and 22. Specifically, the complaint included allegations of multiple altercations between the Complainant and the Company's employees; that the Complainant used his position and the Public Body's resources to address personal concerns relating to the Company; that the Complainant used his position and the Public Body's resources to address personal concerns relating to a vacant lot near the Complainant's residence; that the Complainant threatened Company employees with tickets and arrests and sent fellow peace officers to charge or threaten to charge Company employees.

[para 6] The Public Body states that the Okotoks Municipal Enforcement (OME) Manager role was vacant at the time of the complaint, so the Public Body appointed an independent third-party investigator to investigate. The Public Body states that this lawyer is also a trained workplace investigator. The Public Body states that the Complainant was informed of the investigation on July 27, 2022.

[para 7] The Public Body describes the Body Worn Camera (BWC) footage at issue in the Complainant's complaint as follows (submission, at pages 3-4)

The Body Cam Footage is approximately two hours in length and appears to include video and audio recording of the Complainant engaging the Contracting Company, returning to the Town office for about an hour, speaking with employees in the municipal building, answering a phone call presumably from the Complainant's wife while driving in a Town vehicle, and returning to the Contracting Company at the site near his home. During the cellphone conversation, the Complainant appears to speak with the Complainant's wife about Town business and work-related matters, including: "threatening to check on warrants for the people resting on the lawn".

These comments appear to relate to the Contracting Company employees. Throughout the Body Cam Footage, the Complainant was on duty during working hours and in uniform. The cellphone conversation also occurred in a Town vehicle.

[para 8] The Public Body states that upon being notified of the investigation, the Complainant asked the Public Body to review his BWC footage "as he believed the footage would exonerate him against the Public Complaint".

[para 9] The Commissioner authorized a Senior Information and Privacy Manager to attempt to settle the matter. Following this, the Commissioner decided to conduct an inquiry into the complaint.

[para 10] The Complainant provided detailed arguments in his initial complaint to this office, as well as in his request for inquiry, which followed the settlement phase of the review. Both parties were invited to make a submission following the issuance of the Notice of Inquiry. The Public Body made a

submission, and the Complainant had an opportunity to address the arguments in the Public Body's submission in his own submission. The Complainant chose to rely only on the information previously provided in his complaint and request for inquiry.

II. ISSUES

[para 11] The Notice of Inquiry states the issues in this inquiry as follows:

1. Did the Public Body collect the Complainant's personal information in contravention of Part 2 of the Act?
2. Did the Public Body use the Complainant's personal information in contravention of Part 2 of the Act? In particular, was the use authorized under section 39(1) and 39(4)?

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 in contravention of Part 2 of the Act? In particular, was the disclosure authorized under section 40(1) and 40(4)?

If the Public Body is relying on section 40(1)(c), the parties should also make submissions as to whether the requirements of section 41 are met.

III. DISCUSSION OF ISSUES

1. Did the Public Body collect the Complainant's personal information in contravention of Part 2 FOIP Act?

[para 12] Section 33 of the FOIP Act places limits on personal information a public body can collect. 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 13] In his initial complaint, the Complainant states that the Public Body's Body-Worn Camera Policy requires officers to wear the BWC on shift outside the office, and are not permitted to turn them off unless they are in the office or in a meeting.

[para 14] The Complainant states that of the two-hour BWC footage collected by the Public Body, only a portion related to the interactions the Complainant had with Company employees. The Complainant alleges:

Ultimately, my employer took the opportunity to go through substantially more body camera footage than they were permitted to. They looked at footage well beyond my interaction with the construction company and dove into a conversation I had on the phone with my spouse in the privacy of my work vehicle and a conversation I had with a co-worker in the private area of the municipal center in which the public is not entitled access.

[para 15] The Public Body states that it was required to investigate the complaint made against the Complainant, under the *Peace Officer Act* and its *Code of Conduct* and *Complaints Against Peace Officers Policy*.

[para 16] The Public Body states that it was authorized to collect the BWC footage under section 33(c) of the Act, as the collection was directly related to and necessary to manage its employee. The Public Body cited several Orders of this office that have found that managing and administering personnel is an operating program or activity within the terms of section 33(c). The Public Body states that the footage is from the dates to which the complaint against the Complainant relates.

[para 17] The Public Body provided a copy of its Body-Worn Camera Policy; relevant portions of the Policy state:

A. Responsibilities

...

2. OME Officers

OME Officers are responsible for:

...

b. wearing a BWC during each shift;

...

e. articulating reasons for the non-use of a BWC during their shift;

...

j. downloading recorded events onto a USB drive when disclosure is requested;

k. providing disclosure footage to the OME Exhibit Custodian and/or Administrator for dispersal; and

l. ensuring BWC's are not powered off at any time, except:

- i) when attending meetings,
- ii) while in the OME office, or
- iii) during personal work breaks.

D. Recorded Events

1. Where they are lawfully placed pursuant to their statutory and common law duties to capture interactions with the public, OME recorded events may be used for the purpose of:

- ...
- c. increasing public trust and confidence;
- d. increasing officer accountability;
- ...
- h. increasing the efficiency of resolution of a complaint against an officer;
- ...

H. Access to Recorded Events

1. Access to recorded events is automatically captured and tracked in the software, and includes the OME Officer's name, time and date. Recorded events may be viewed by:

- a. the OME Officer who captured the recorded event;
- ...
- c. any person who completes performance evaluations or has a supervisory role over the OME Officer that captured the recorded event;
- ...
- e. OME Officers in a senior position to the officer who captured the recorded event when there is a legitimate investigative or administrative reason to view it;
- f. an investigator in response to a complaint related to the recorded event; and
- g. any other Peace Officer who may need to view the recorded event for law enforcement purposes.

[para 18] The Public Body states that it reviewed this office's Guidance for the Use of Body-Worn Cameras by Law Enforcement Authorities in creating its Policy¹. It states that under section A(2)(l), peace officers are permitted to turn off the BWC while at the Okotoks Municipal Enforcement (OME) office, during meetings, and during personal breaks. The officer is responsible for turning off the BWC in these appropriate situations.

¹ <https://oipc.ab.ca/wp-content/uploads/2022/02/Body-Worn-Cameras-2015.pdf>

[para 19] With respect to the Complainant's concern that the Public Body collected his and his spouse's personal information contained in the footage of the Complainant's phone conversation with his wife, the Public Body states that any conversation occurring while an officer is on duty is collected on the footage unless the officer turns the BWC off. The Public Body states:

Had the Complainant instead conducted any conversations that he considered to have been personal in nature during his personal work breaks, the BWC policy would have permitted him to power off his BWC, in accordance with section A(2)(l)(iii).

In any case, the content of that conversation related to activities that the Complainant was proposing to take in his capacity as a Peace Officer. In addition, these activities relate to issues of accountability in his performance as a Peace Officer, which is one of the stated purposes for the collection of personal information of Peace Officers in the BWC policy.

[para 20] The Public Body states that the collection of this personal information was consistent with its Policy.

[para 21] With respect to the phone conversation between the Complainant and his spouse, the Public Body had described the conversation as being about Town business and work-related matters, including "threatening to check on warrants for the people resting on the lawn". The Public Body states that this conversation therefore related to activities the Complainant was proposing to take in his capacity as a peace officer.

[para 22] In his complaint to this office, the Complainant states that the Public Body's Code of Conduct and the Peace Officer Ministerial Regulation state that only the Complainant's manager was authorized to investigate the Complainant and therefore is the only person permitted to view the BWC footage.

[para 23] With respect to the Public Body's BWC Policy, the Complainant states in his request for inquiry:

Recorded events are triggered when the officer has an interaction with the public. This does not allow for anyone to go and look through unrecorded events *such as* an officer urinating, an officer talking on the phone to his spouse, an officer eating lunch at the office and chatting with co-workers and *so on*.

Analysis

[para 24] As noted by the Public Body, past Orders have found that managing employees is an operating program or activity of a public body (Order F2013-31, at para. 10). Order F2020-26 found that this includes a police service investigating whether a police officers conduct contravened the *Police Act* (at para. 41).

[para 25] Section 33(c) authorizes the collection of personal information that relates directly to and is necessary for an operating program or activity of the public body. Past Orders of this Office have found

that ‘necessary’ does not mean ‘indispensable’ (see Orders F2008-029, at para. 51; F2017-83, at para. 14; F2019-15, at para. 15).

[para 26] The Public Body’s Complaints Against Peace Officers Policy (Complaints Policy) states that written complaints against peace officers must be investigated pursuant to section 14 of the *Peace Officer Act*; that section, as well as section 15(1), states:

14 Any person may, in accordance with the regulations, make a complaint in writing regarding a peace officer to the peace officer’s authorized employer.

15(1) Where a complaint is made under section 14, the authorized employer must investigate and dispose of the complaint in accordance with the procedures set out in this Act and the regulations.

[para 27] The Complaints Policy further states that complaints are forwarded to the Municipal Enforcement Manager.

[para 28] I agree that the Public Body is authorized to conduct investigations of peace officers under the *Peace Officer Act*. In this case, the Public Body received a written complaint against the Complainant regarding the Complainant’s work conduct. The analyses in the Orders cited above also apply here, and I find that the Public Body was authorized to collect the Complainant’s BWC footage as part of an investigation into a complaint about a peace officer’s work conduct.

[para 29] The Complainant is not arguing that the Public Body is not permitted to collect BWC footage *at all* for an investigation. Rather, the Complainant argues that the Public Body viewed more of the footage than was necessary to address the complaint, and used portions of the footage that were irrelevant to the complaint relating to the interaction between the Complainant and the Company.

[para 30] The language used in the Public Body’s BWC Policy refers to “recorded events” from footage, and the Public Body’s review or use of those recorded events. The Complainant seems to argue that “recorded events” are limited to an officer’s interaction with the public. The Complainant argues that the Public Body is therefore not permitted to review footage other than interactions with the public (which the Complainant referred to as “unrecorded events”).

[para 31] It is not clear why the Complainant believes that the BWC Policy relates only to footage that shows an officer’s interactions with the public. There is no such limitation set out in the Policy. I interpret “recorded events” in the Policy to mean anything recorded by the BWC.

[para 32] Past Orders of this office have discussed the need to provide public bodies with some leeway in collecting information for an investigation, finding that a public body may collect information that it ultimately determines is not necessary to make a decision regarding the relevant individual. Order F2012-05 explains the rationale for this (at paras. 30 and 42):

I note that the Public Body does not need to rely on all information collected when making a determination under the WCA, in order for that collection of information to be authorized under the FOIP Act. Often at least some of the information collected will not ultimately be relied on to make the determination; part of a case manager's job is to sort through the information that they have sought out or that is presented to them, to decide what is relevant. It would not be practical to thwart the work of investigators carried out in good faith, by the prospect that after the fact, what they collect will be judged, with hindsight, to be irrelevant as evidence and the collection to have been unauthorized. In my view, the investigator may collect any information that could reasonably be said to be related to the matter under investigation and potentially relevant. It need not ultimately be proven to be relevant in fact.

...

In my view, certainly so long as these bodies are gathering and evaluating evidence in good faith and the belief that it may be or is relevant, it is not my role to second-guess their performance of these duties.

[para 33] This analysis is relevant here, insofar as it is not possible for the Public Body to collect only the portions of BWC footage that directly relate to a complaint without first collecting that footage and reviewing it. Therefore, I find that the collection of the BWC footage in its entirety was authorized under section 33(c).

[para 34] The Complainant's concern that the Public Body used information that he argues is irrelevant to the complaint made about him will be discussed in more detail in the next section of this Order, which will address the Public Body's use of the Complainant's personal information.

[para 35] The Complainant has also argued that the lawyer hired to conduct the investigation was not authorized to view the footage. I will address this concern in the next section as well.

2. Did the Public Body use the Complainant's personal information in contravention of Part 2 of the Act? In particular, was the disclosure authorized under section 39(1) and 39(4)?

[para 36] Use of the Complainant's 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 37] 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 38] As stated above, past Orders have found that the term “necessary” does not mean “indispensable”. In Order F2008-029, the Director of Adjudication addressed a situation in which a public body disclosed a police report containing an individual’s personal information to a third party organization, pursuant to an information-sharing agreement, for the purpose of enabling the organization to provide assistance to victims of domestic violence. The Director of Adjudication stated (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 39] This analysis has been applied to the standard of what is necessary under section 40(4) (see Order F2015-01, at paras. 25-26), and applies as well to the standard under section 39(4).

[para 40] With respect to the Complainant’s concern that the BWC footage was disclosed to the lawyer conducting the investigation, the Public Body has argued that this was a use of the Complainant’s personal information, rather than a disclosure. The Public Body argues that the footage was used by Public Body employees, including the lawyer hired to conduct the investigation.

[para 41] Generally, when information is used internally for the same purpose, it is a use of personal information rather than a disclosure. Even though the lawyer hired to conduct the investigation was an external lawyer, the lawyer was hired to perform the function of a Public Body employee in the absence of someone filling that role. Given this, when the lawyer conducting the investigation reviewed and relied on the BWC footage, this was a use of the Complainant’s personal information, rather than a disclosure.

[para 42] The Public Body's Code of Conduct states that internal investigations of an officer will be conducted by the OME Manager; section D of the Code of Conduct states:

3. Any internal enquiry of a non-criminal nature concerning an officer will be conducted by the OME Manager or in the case of an investigation involving the OME Manager, the Chief Administrative Officer or designate.

[para 43] The Public Body states that the OME Manager role was vacant at the time the complaint was made against the Complainant. Therefore, the Public Body hired an external lawyer to conduct the investigation.

[para 44] That the Public Body hired a lawyer to stand in for the OME Manager in conducting the investigation does not negate the Public Body's authority to conduct that investigation. The Public Body cannot be thwarted in its legislated duty to investigate written complaints under the *Peace Officer Act* due to a staffing vacancy.

[para 45] With respect to the Complainant's concerns that the Public Body used specific portions of the BWC footage without authority, the Complainant argues that only his interaction with the Company employees was relevant to the complaint and should have been viewed. The Complainant states that the Public Body also reviewed footage of conversations between the Complainant and coworkers, and a phone conversation between the Complainant and his spouse, without authority. The Complainant's concern is also that this 'additional' footage was used as part of the investigation.

[para 46] The Public Body states that it was authorized under section 39(1)(a) of the Act to use the Complainant's personal information for the investigation. The Public Body states that the personal information was used for the investigation, which is the same purpose for which it was collected and not merely a consistent purpose.

[para 47] The Public Body argues that due to the seriousness of the allegations made against the Complainant, it was obliged to conduct a thorough investigation. The Public Body states that it collected BWC footage that related to the events described by the individuals who made the complaint against the Complainant. It states (submission, at page 10):

If there were personal breaks occurring during the relevant time, the Applicant could and should have turned the BWC off, in accordance with the BWC Policy, in which case that footage would not have been captured.

[para 48] The Public Body also notes that the Complainant suggested to the Public Body upon learning of the investigation, that the BWC footage be used for the investigation, essentially consenting to its use for that purpose.

[para 49] From the description of the complaint made against the Complainant, and the contents of the BWC footage, the information used by the Public Body all had a logical connection to the complaint being investigated. The Complainant argues that only the portions of the footage showing his interaction with the Company employees was relevant; however, the Public Body clearly determined that conversations the Complainant had with his spouse and/or coworkers also related to the matter.

[para 50] In Order F2012-05, I considered whether the Workers' Compensation Board (WCB) used a claimant's personal information beyond what was necessary in for an investigation under the *Workers' Compensation Act* (WCA). In that case, the WCB investigator had collected the claimant's personal information in a letter from a third party. The letter included personal information that was not ultimately relevant to the claim. The claimant had argued that the WCB was not authorized to collect or use the personal information in the letter. I found that the WCA authorized the investigation and therefore it was not appropriate for me to base the WCB's authority to collect and use the information under the FOIP Act on the basis of whether I believed the information was relevant to the WCB's investigation. To do so would be to encroach upon the WCB's statutory function. I said (at paras. 42 and 43):

If this office were to make decisions as to whether the use of information was authorized based on whether or not it agreed that the particular information was a relevant item of evidence in the Public Body's process, it would be treading on the jurisdiction and work of the Public Body and the WCA. In my view, certainly so long as these bodies are gathering and evaluating evidence in good faith and the belief that it may be or is relevant, it is not my role to second-guess their performance of these duties.

The same points apply to whether the terms of section 39(4) of the FOIP Act were met. This provision requires a public body to use personal information only to the extent necessary to fulfill its purpose in a reasonable manner. The case manager considered the information that had been presented to her by the claims investigator to enable her to make her determination and issue her decision, as she was entitled to do. There is nothing to suggest that she used the information for any extraneous or bad-faith purpose. She did not need to have been correct as a matter of law as to the significance to be accorded the information in order for her performance of this function to have been done in a reasonable manner.

[para 51] I find that this analysis also applies here. The BWC footage logically relates to the subject matter of the complaint made against the Complainant. It was reasonable for the Public Body, and the investigator more specifically, to use this footage as it did, in investigating the complaint.

[para 52] The Complainant has also alleged in his request for inquiry that the BWC footage was viewed by Public Body employees who were not authorized to view it; specifically, a Human Resources director, a Human Resources worker, an administrator, an IT employee, and a municipal enforcement acting manager from another municipality.

[para 53] The Public Body states that IT staff were required to obtain the relevant BWC footage from the device. It states that HR staff "were aware of the footage contents" to manage the investigation and understand the scope of the complaint. The Public Body also states that it

... contracted with a Subject Matter Expert in the municipal enforcement field, to review Town policies and procedures and assist in specific investigation processes, including this investigation. This is due to the fact that the Municipal Enforcement Manager role was vacant at the time.

[para 54] I accept the Public Body's explanation for the involvement of these employees in the matter. The Complainant argues that pursuant to the BWC Policy, only his supervisor was authorized to review the footage. However, while that Policy sets out specific positions that may view BWC footage and the purpose of that viewing, it does not limit the viewing of footage to those positions.

[para 55] Further, conducting the investigation is not necessarily limited to what the lawyer did as an investigator. Rather, involving HR to deal with the outcome of the investigation if necessary, is a logical extension of that investigation.

[para 56] I find that the Public Body was authorized under section 39(1)(a) to use the Complainant's personal information in the BWC footage as it did. I also find that the Public Body used the personal information only to the extent necessary to conduct the investigation, satisfying section 39(4).

3. Did the Public Body disclose the Complainant's personal information in contravention of Part 2 of the Act? In particular, was the disclosure authorized under section 40(1) and 40(4)?

[para 57] The Complainant's concern regarding disclosure of his personal information is that the Public Body was not authorized to disclose the BWC footage to the lawyer conducting the investigation. As I have found that this was a use of personal information rather than a disclosure, I do not need to consider this issue.

IV. ORDER

[para 58] I make this Order under section 72 of the Act.

[para 59] I find that the Public Body had authority to collect and use the Complainant's personal information as it did.

[para 60] I find that the Public Body did not disclose the Complainant's personal information.

Amanda Swanek
Adjudicator