



INVESTIGATION REPORT 118-2016

City of Warman

June 30, 2016

Summary:

The husband of the Complainant (the wife) alleged that the City of Warman misused her telephone number to contact her husband. The Information and Privacy Commissioner (IPC) found that while the City had authority to collect the wife's personal information from the wife, the City did not directly collect the husband's personal information from the husband, as required by subsection 25(1) of LA FOIP. Had it collected the personal information from the husband, then it would have taken reasonable steps to also comply with section 26 of LA FOIP. In the course of this investigation, the City agreed to revise its form and practices so that it would be in compliance with subsections 25(1) and 26 of LA FOIP. The IPC recommends that the City follow through with revising its form and practices.

I BACKGROUND

- [1] In June 2009, the Complainant (the wife) requested a utility hook-up from the City of Warman (the City). The City filled out a work order form that included the wife's name, her husband's name, and a telephone number.
- [2] Sometime between June 2009 and May 2016, the information on the work order was used to create a customer ID for the wife and a customer ID for the husband in the City's computer system.
- [3] Then, in January 2016 and May 2016, the Complainant's husband (the husband) contacted a bylaw enforcement officer at the City, by email multiple times to report an

ongoing parking issue. In an email dated January 13, 2016, the husband had requested he preferred communication to be through email. On May 3, 2016, the husband emailed the bylaw enforcement officer again about the parking issue. He did not provide his telephone number to the bylaw enforcement officer through the email exchange.

[4] Soon after the May 3, 2016 email, the wife received voicemails from the bylaw enforcement officer. The bylaw enforcement officer was attempting to contact the husband.

[5] In an email dated May 6, 2016, the husband submitted a privacy complaint to the City Manager. He asserted he intentionally did not provide the bylaw enforcement officer with his telephone number. He alleged that the bylaw enforcement officer had looked up his name in the City's system and found the wife's name and telephone number. The husband alleged that the bylaw enforcement officer abused his authority by looking up the wife's telephone number in the City's system and that the bylaw enforcement officer did not have a "need to know" the wife's telephone number to do his job.

[6] In a letter dated May 25, 2016, the City Manager responded by stating he did not believe that a privacy breach had occurred. On May 29, 2016, the husband requested that my office would investigate the matter. Since the husband's allegation was the misuse of his wife's personal information, the wife is the Complainant for this file. The wife sent an email dated June 2, 2016 to my office stating that her email was written permission for her husband to act on her behalf in my office's investigation.

[7] On June 3, 2016, my office notified both the wife and the City that my office would undertake an investigation.

II DISCUSSION OF THE ISSUES

[8] The City qualifies as a "local authority" as defined by subsection 2(f) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP).

1. Does the information at issue qualify as “personal information” as defined by subsection 23(1) of LA FOIP?

[9] The information at issue is the telephone number provided by the wife for a utility hook-up. Subsection 23(1)(e) of FOIP defines personal information as follows:

23(1) Subject to subsections (1.1) and (2), “personal information” means personal information about an identifiable individual that is recorded in any form, and includes:

...

(e) the home or business address, home or business telephone number, fingerprints or blood type of the individual;

[10] I find that the information at issue qualifies as personal information of the wife as defined by subsection 23(1)(e) of LA FOIP.

2. Did the City collect the personal information in accordance with section 24 of LA FOIP?

[11] Local authorities must only collect personal information that relates to an existing or proposed program or activity of the local authority. Section 24 of LA FOIP provides:

24 No local authority shall collect personal information unless the information is collected for a purpose that relates to an existing or proposed program or activity of the local authority.

[12] Based on the City Manager’s letter dated May 25, 2016 to the husband, the wife had provided her telephone number to the City in June 2009 when she was applying for a utility hook-up. Utility hook-ups are an existing activity of the City. Therefore, I find that the City had authority to collect the wife’s telephone number pursuant to section 24 of LA FOIP.

3. Was the City's manner of collection in accordance with subsection 25(1) of LA FOIP, and was the personal information it collected accurate and complete pursuant to section 26 of LA FOIP?

[13] Subsection 25(1) of LA FOIP requires that, where reasonably practicable, a local authority collect personal information directly from the individual to whom it relates.

25(1) A local authority shall, where reasonably practicable, collect personal information directly from the individual to whom it relates.

[14] Further, section 26 of LA FOIP requires that a local authority ensure the personal information it uses for administrative purposes is as accurate and complete as is reasonably possible. Section 26 of LA FOIP provides:

26 A local authority shall ensure that personal information being used by the local authority for an administrative purpose is as accurate and complete as is reasonably possible.

[15] In its submission dated June 16, 2016, the City explained that “a work order was created to obtain the initial information for the new customers” and that the collection was for “the purposes of creating a new customer ID to receive municipal services”. Subsection 25(1) of LA FOIP requires that personal information be collected directly from an individual. If the City was creating a customer ID for the husband, then it should have collected his personal information directly from the husband. However, it indirectly collected the husband's personal information from the wife.

[16] While it may seem innocuous to make an assumption that a wife's telephone number would also belong to the husband, there may be circumstances in which it would be inaccurate to make such an assumption. To avoid inaccuracies, subsection 25(1) of LA FOIP requires that a local authority collect personal information directly from an individual where it is reasonably practicable. By collecting directly from the individual, a local authority can also ensure that the personal information it is using for an administrative purpose is as accurate and complete as reasonably possible pursuant to section 26 of LA FOIP.

- [17] I find that the City's manner of collection was not authorized by subsection 25(1) of LA FOIP. I also find that the City did not ensure that the husband's personal information was accurate and complete before using it for an administrative purpose pursuant to section 26 of LA FOIP.
- [18] On June 28, 2016, my office recommended that the City revise its forms to include a notice of the purpose for which it is collecting personal information, and to have individuals themselves fill out and sign the forms.
- [19] In an email dated June 29, 2016, the City responded by stating that revising its utility forms to be a new resident form. The new resident form will have an explicit statement stating the purpose for the collection, which is for the City to provide municipal services such as utilities and bylaw enforcement. The City also stated that it will no longer allow individuals to sign up their spouse for municipal services but that it will require both individuals to fill out their own personal information.

III FINDINGS

- [20] I find that the information at issue qualifies as personal information as defined by subsection 23(1)(e) of LA FOIP.
- [21] I find that the City had authority to collect the telephone number of the wife pursuant to section 24 of LA FOIP.
- [22] I find that the City's manner of collection was not authorized by subsection 25(1) of LA FOIP.
- [23] I find that the City did not ensure that the husband's personal information was accurate and complete before using it for an administrative purpose pursuant to section 26 of LA FOIP.

IV RECOMMENDATION

[24] I recommend that the City follow through with revising its forms and practices as detailed in paragraph [19].

Dated at Regina, in the Province of Saskatchewan, this 30th day of June, 2016.

Ronald J. Kruzeniski, Q.C.
Saskatchewan Information and Privacy
Commissioner