ALBERTA

OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER

ORDER F2016-34

August 31, 2016

CALGARY POLICE SERVICE

Case File Number F8349

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Summary: After obtaining records in an access request, the Applicant made a correction request under the *Freedom of Information and Protection of Privacy Act* (the FOIP Act) to the Calgary Police Service (the Public Body). He expressed concern that records of his personal information contained reference to his having been charged with common assault, but made no reference to his having been acquitted of this charge. He also complained that the records contained a statement that there was a long history of domestic violence between him and his former spouse, and that the records also contained a statement to the effect that he had access to rifles. He stated that there was only one violent incident and that he was not the perpetrator, and that the rifles are "heritage" rifles in the custody of the Public Body. The Applicant requested that the statements in the records be both deleted and corrected on the basis that they expose him and his daughter to harm if police officers used them to assess the risk he poses.

The Public Body declined to correct the Applicant's personal information on the basis that the statements in the record in question were either true or opinions.

The Adjudicator determined that the record was not one that could reasonably be corrected by altering the information it contained. She determined that section 36 of the FOIP Act required the Public Body to annotate or link the Applicant's requested corrections to the record, but that the Public Body had not complied with this duty. She ordered the Public Body to annotate or link the Applicant's requested correction to the record in such a way that it would be visible to the reader of the record.

Statutes Cited: AB: *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 1, 35, 36, 72;

Authorities Cited: AB: Orders 97-020, 98-010, 2000-007, F2004-025, F2005-023 **BC:** 01-23

I. BACKGROUND

[para 1] After obtaining records in an access request, the Applicant made a correction request to the Calgary Police Service (the Public Body). He expressed concern that records of his personal information contained reference to his having been charged with common assault, but made no reference to his having been acquitted of this charge. He also complained that the records contained a statement that there was a long history of domestic violence between him and his former spouse, and that the records also contained a statement to the effect that he had access to rifles. He stated that there was only one violent incident and that he was not the perpetrator with regard to this incident. He stated that the rifles are "heritage" rifles and are in the custody of the Public Body. The Applicant requested that the statements in the records both be deleted and corrected on the basis that they expose him and his daughter to harm if police officers used them to assess the risk he poses.

[para 2] The Public Body refused to make the requested changes on the basis that it was true that the Applicant had been charged with assault and that it was true that he had access to rifles. It refused to delete the statement regarding the history of violence on the basis that it was an opinion. The Public Body annotated its records to indicate that the Applicant had requested that these statements be deleted, and included its reasons for denying the request.

[para 3] The Applicant requested that the Commissioner review the Public Body's decision to refuse to correct his personal information.

[para 4] The Commissioner authorized mediation. As mediation was unsuccessful, the matter was scheduled for a written inquiry.

II. ISSUE

Issue A: Did the Public Body properly refuse to correct the Applicant's personal information?

[para 5] Section 36 empowers an individual to request that a public body correct his or her personal information when the individual believes that there is an error or omission in the individual's personal information. It states:

> *36(1) An individual who believes there is an error or omission in the individual's personal information may request the head of the public body that*

has the information in its custody or under its control to correct the information.

(2) Despite subsection (1), the head of a public body must not correct an opinion, including a professional or expert opinion.

(3) If no correction is made in response to a request under subsection (1), or if because of subsection (2) no correction may be made, the head of the public body must annotate or link the personal information with that part of the requested correction that is relevant and material to the record in question.

(4) On correcting, annotating or linking personal information under this section, the head of the public body must notify any other public body or any third party to whom that information has been disclosed during the one year before the correction was requested that a correction, annotation or linkage has been made.

(5) Despite subsection (4), the head of a public body may dispense with notifying any other public body or third party that a correction, annotation or linkage has been made if

> *(a) in the opinion of the head of the public body, the correction, annotation or linkage is not material, and*
>
> *(b) the individual who requested the correction is advised and agrees in writing that notification is not necessary.*

(6) On being notified under subsection (4) of a correction, annotation or linkage of personal information, a public body must make the correction, annotation or linkage on any record of that information in its custody or under its control.

(7) Within 30 days after the request under subsection (1) is received, the head of the public body must give written notice to the individual that

> *(a) the correction has been made, or*
> *(b) an annotation or linkage has been made pursuant to subsection (3).*

(8) Section 14 applies to the period set out in subsection (7).

[para 6] In Order 98-010, former Commissioner Clark defined error or omission in the following way:

> As the terms "error" and "omission" are not defined in the Act, I have used the ordinary dictionary definitions to define these terms. The *Concise Oxford Dictionary*, Ninth Edition, defines "omission" as something missing, left out or overlooked. "Error" is defined to mean a mistake, or something wrong or incorrect. Furthermore, the *Concise Oxford Dictionary* defines

> "incorrect" to mean not in accordance with fact, or wrong, while the term "correct" is defined as meaning, to set right, amend, substitute the right thing for the wrong one.

Applying these definitions, an applicant may request correction of personal information under section 36 if the applicant considers information to be incorrect, missing, left out, or overlooked.

[para 7] Section 36 creates a duty in public bodies to annotate or link an individual's personal information with the requested correction in the event that a requested correction is not made or the information that is the subject of the requested correction is an opinion. However, section 36 does not impose a duty on public bodies to correct personal information, even in circumstances where an individual establishes that the individual's personal information in the custody or control of a public body is inaccurate. The head of a public body is given the ability under the FOIP Act to correct personal information that is not an opinion, but if the head does not correct the information, then it is mandatory for the head to either annotate or link the requested correction with the personal information that is relevant to the requested correction.

[para 8] In Order 01-23, the former Information and Privacy Commissioner of British Columbia set out the following principles regarding corrections requests with respect to similarly worded provisions in British Columbia's statute:

> - There is no requirement in section 29 that a public body must correct personal information. However, it should do so where facts are clearly incorrect.
>
> - The statutory obligation on a public body is to annotate the information with the correction that was requested and not made.
>
> - A public body cannot correct someone's opinion; it can only correct facts upon which an opinion is based. (See Order No. 20-1994, [1994] B.C.I.P.C.D. No. 23, August 2, 1994, p. 11)
>
> - Annotations and corrections should be apparent in the file, but public bodies have discretion to make administrative decisions about how they will annotate. In general, the annotation should be as visible and accessible as the information under challenge by the applicant. Any annotations or corrections should also be retrieved with the original file.
>
> In Order 00-51, [2000] B.C.I.P.C.D. No. 55, I cited Order No. 124-1996 with approval. It is true that s. 29 does not – as I noted in Order 00-51 – say that a public body "must" make a requested correction. That would be absurd. It is equally true, however, that s. 58(3)(d) of the Act provides that the commissioner may "confirm a decision not to correct personal information or specify how personal information is to be corrected". If a public body declines to correct an actual error or omission in someone's personal information, the commissioner may order that error or omission to be corrected […]

[para 9] While section 36 does not make it mandatory for the head of a public body to correct errors or omissions in personal information, section 72(3)(d) of the FOIP Act empowers the Commissioner to make orders regarding the correction of personal information. This provision states:

72(3) If the inquiry relates to any other matter, the Commissioner may, by order, do one or more of the following:

(d) confirm a decision not to correct personal information or specify how personal information is to be corrected;

[para 10] Section 72(3)(d) authorizes the Commissioner to specify how personal information is to be corrected. The implication of this provision is that there is more than one way to correct personal information. This point is also made in Order 01-23, where the former Information and Privacy Commissioner of British Columbia stated:

> Further, the Ministry's argument apparently assumes that a correction must be made by physically changing a record produced by someone else or by the Ministry, *i.e.*, by deleting or altering incorrect personal information in a way that impairs or destroys the integrity or accuracy of the record. Correction does not by definition require the physical alteration of an existing record. It is easy to conjure a number of ways in which the Ministry could correct an error or omission as contemplated by s. 23(2) of the CFCSA Regulation or under s. 29 of the Act. Handwritten corrections could, for example, be made on a copy of the original record, with a note being attached to the original to alert readers to the existence of the corrections on the copy. An attached note to the original could, alternatively, contain (or merely repeat) the actual corrections. Such approaches preserve the integrity of original records while ensuring that the incorrect personal information is actually corrected.

[para 11] Former Commissioner Loukidelis recognized that the records of public bodies are official documents. "Correcting" such documents by removing or altering incorrect information in the original document has the potential to destroy the integrity of a public body's documents. He noted that there are other ways that information can be said to be "corrected", such as attaching corrections to the document or annotating the documents such that the correct information is available to the reader.

[para 12] I agree with the reasoning in Order 01-23 that correcting personal information by obliterating information deemed incorrect in an original document is not the only means by which personal information may be corrected. In addition, I agree that correcting information by replacing incorrect information with correct information in a document is a step that should be taken only rarely, (such as in the case where information is inaccurately entered into a database with the result that an individual is, for example, incorrectly billed or refunded as a result) as doing so may destroy the integrity of the original record. An original record, even one containing inaccurate information, may be an important part of the history of a matter for which the document was prepared. If inaccurate information is destroyed and not preserved, then a significant part of the history of a matter could also be destroyed. If the matter in question is a legal matter, then the public body's action of altering information in an original document, even for the purpose of correcting it, may have adverse legal consequences for a public body or for others.

[para 13] From my review of the foregoing cases and the terms of section 36, I interpret section 36 as giving an individual some control over the personal information about the individual in the custody or control of government institutions. While this

provision does not permit an individual to dictate what may be said or written about the individual, or to require the deletion of information the individual considers inaccurate or misleading, it does permit the individual to provide the individual's own views of information by requiring a public body to link or annotate correction requests to the records.

[para 14] I note that in Order F2004-025, an order also involving the Calgary Police Service, the Adjudicator ordered the Public Body to make the following changes to a document:

> I find that the use of the word "accused" by the Public Body where it occurs in the 1992 report is incorrect. I order the Public Body to correct the error by replacing "accused" with "suspect" in that report.

[para 15] There is no indication in Order F2004-025 that the Adjudicator considered whether there were other means to correct the information in the record that would preserve the integrity of the record before ordering the Public Body to take such a drastic step. In my view, Order F2004-025 is in error to the extent that it appears to suggest that an order to alter information in a document should be made, without first considering whether it would destroy the integrity of the record or result in adverse legal consequences to a public body or anyone else to do so.

[para 16] Past orders have stated that an individual has the initial burden of establishing that the public body has personal information about him or her and that there is an error or omission in the personal information that the public body refused to correct (Order 97-020 at para. 108; Order F2005-023 at para. 10). The public body has the burden of showing why it refused to correct the personal information and that it instead properly annotated or linked the personal information with the requested correction (Order 97-020 at para. 109; Order F2005-023 at para. 10).

[para 17] Under section 36, an individual need only *believe* that there is an error or omission in his or her personal information to make a correction request. If a public body chooses not to make the requested correction, it must annotate or link the request to the information. As discussed above, the Act does not impose a duty on a public body to make the requested correction, even if the individual proves that there is an error or omission in the individual's personal information. While the Commissioner has jurisdiction under section 72(3)(d) to order a public body to correct personal information in a particular way, for the reasons given above, this power cannot be reasonably exercised so as to destroy or obliterate the integrity of public documents. In other words, even if an individual were to prove there to be an error or omission in the individual's personal information, the Commissioner would not necessarily order a public body to correct personal information by deleting the information proven to be incorrect and substituting other information, or by requiring a public body to alter the original document by adding the information proven to have been omitted.

[para 18] A public body's duty to ensure that personal information is accurate and complete arises only in the circumstances set out in section 35[1]; that is, when a public body is going to make a decision directly affecting the individual with the information in question. The duty to use complete and accurate information under section 35 does not extend to situations in which a public body uses personal information for purposes other than making decisions directly affecting the individual.

[para 19] Annotating or linking personal information will, in many or most instances, be the preferred method of correcting information when an applicant complains that there is an error or omission in his or her personal information, and the information will not be used to make a decision of the kind contemplated by section 35. (In some cases, it may be possible to create a revised "corrected" version, but even so, the original version will likely need to be retained.)

Is the information the Applicant asks to have corrected his personal information?

[para 20] I turn first to the question of whether the information the Applicant seeks to correct is his personal information.

[para 21] Section 1(n) defines personal information within the terms of the FOIP Act. This provision states:

> *1 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,*

[1] Section 35 states, in part:

> 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 […]

> *(vi) information about the individual's health and health care history, including information about a physical or mental disability,*
>
> *(vii) information about the individual's educational, financial, 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;*

Section 1(n) does not define "personal information" exhaustively, but inclusively. As a result, if information is "about an identifiable individual" it is personal information within the terms of the FOIP Act.

[para 22] In his request for correction, the Applicant raised a number of issues regarding the conduct of the Calgary Police Service. Many of these did not refer to errors or omissions in his personal information, but related to the conduct of members of the police service generally. The Public Body did not respond to these issues, but instead, responded in relation to three points made by the Applicant regarding statements made about him in its records, and which statements are arguably capable of being corrected. The three statements are contained in a document entitled "Family Violence Investigative Report Questions" (FVIRQ) and are the following:

> 1) Suspect's criminal violence history: Does the suspect have a history of investigations, charges or convictions for violence and / or sex assaults?
>
> The Complainant was charged with common assault against s. 17(1).
>
> 2) Previous domestic violence history: Is there a history of violence or abusive behavior in the relationship or with a previous intimate partner?
>
> Yes there is a long history of violence between the two.
>
> […]
>
> 12) Firearms: Does the suspect have access to firearms:
> [The Applicant] does have access to some rifles.

[para 23] The first statement, in relation to the question of whether the suspect has a history of criminal violence, indicates that the complainant (the Applicant) was charged with an offence. The second statement conveys the idea that the Applicant was involved in a relationship in which there was a lengthy history of violence. The third statement (the answer to question 12) answers the question as to whether "the suspect has access to firearms" by stating that the Applicant has access to rifles. All three statements contain information about the Applicant as an identifiable individual and is therefore his personal information.

[para 24] The three statements the Applicant seeks to have corrected are his personal information.

Why does the Applicant believe there is an error or omission in his information requiring correction?

[para 25] The Applicant states that he was acquitted of the assault charge referred to in the first statement. He argued in his correction request that this statement "fails to state that I was found not guilty and exonerated, as recorded in Judge Semenuk's judgment [...] a copy of which was provided to the officers when they were at my residence." The Applicant essentially argues that there is an omission in the FVIRQ as it refers only to the charge, but not to the acquittal.

[para 26] The Applicant also stated in his correction request that the statement that "there is a long history of domestic violence between the two" is false and misleading. He states that there was only one incidence of violence, in which he was assaulted by his former spouse.

[para 27] Finally, the Applicant states that his rifles are not accessible to him, as these are "heritage" firearms, and are currently on the premises of the Public Body.

[para 28] In his request for review to this office, the Applicant stated that he is concerned that the inclusion of these statements in the FVIRQ puts him and his daughter in danger. My understanding of the Applicant's arguments is that he is concerned that when he has dealings with them, police officers will review the FVIRQ and form the opinion that he is a violent individual with a record of violent crimes and access to guns, and take measures to defend themselves against him that they might not otherwise take.

[para 29] The Applicant argues that the three statements in the FVIRQ are "false or misleading". In my view, the Applicant is essentially arguing that the statements do not provide the "whole picture", with the result that they create false or misleading impression of any threat he poses. He has submitted additional information which he believes should also have been included in the FVIRQ. The Applicant's position is that the information in the FVIRQ is inaccurate or misleading because it does not also contain the information he has supplied.

Did the Public Body comply with its duty under section 36(3)?

[para 30] In its decision of July 30, 2014 regarding the Applicant's correction request, the Public Body stated:

> Section 36 of the *Freedom of Information and Protection of Privacy Act* (FOIP Act) permits an individual who believes that his or her personal information within the custody or control of a public body contains an error or omission may request the public body to correct the individual's personal information. Section 36 does not confer upon an Individual a right of correction, nor is

a public body permitted to correct opinions. You are not entitled to request correction of information that is not your personal information.

I have made the following determinations. For ease of reference, I have reproduced your requested changes, and my responses thereto.

1. "*that I was charged with common assault, but falls* to *mention that I was found not guilty and exonerated by Judge Semenuk, who believed me and rejected the evidence given by wife, in effect saying that she lied and I told the truth."*

The fact that you were charged with common assault against [the Applicant's former spouse] is true. This Information is therefore factual and not correctable. The FOIP Act does not direct how an officer chooses to report their investigative findings or what information they will include.

2. "that "there is a long history of domestic violence between the two.""

This is the investigating officer's subjective opinion of your relationship with your ex-wife based on his investigation. Opinions are not correctable. Moreover, "domestic violence" may exist without charges being laid.

3. "*that I have access to firearms, which I do not - my two "heritage" firearms are in the hands of the police and will remain there until this matter is settled."*

This information was provided to the investigating officer during the course of his investigation. It is not an incorrect statement.

[para 31] The Public Body attached the following notice to the file documenting the Applicant's complaint regarding his former spouse:

In the investigative details portion of the report, the Applicant requested that the following statements be deleted from the report:

1) The complainant was charged with common assault;
2) There is a long history of domestic violence between the two; and
3) [The Applicant] does have access to some rifles

The request has been denied for the following reasons:

1) The statement that the [Applicant] was charged with common assault is true.
2) The statement that there is a long history of domestic violence is an opinion and […] therefore may not be corrected pursuant to s. 36(2) of FOIP.
3) The statement that [the Applicant] has access to some rifles is information that was provided to the investigator by a third party and the information provided was recorded accurately.

[para 32] In Order 2000-007, former Commissioner Clark summarized past decisions regarding public bodies' duties to annotate and link correction requests to personal information. He said:

Section [36(3)] states that if a public body does not correct an applicant's personal information, or if no correction may be made because of section [36(2)], it must annotate or link the information with the correction that was requested but not made. In Order 97-020, I defined the word "annotate" to mean "add an explanatory note" to something and the word "link" to mean "connect or join two things or one thing to another", "attach to", or "combine".

> Furthermore, I stated that to "annotate … the information with the correction that was requested" implies that the correction that was requested is written on the original record, close to the information under challenge by the applicant. Although there is no requirement to do so, the annotation should also be signed and dated.
>
> In addition, I said that to "link the information with the correction that was requested" implies that the correction that was requested is attached to, or joined or connected with, the original record containing the information under challenge by the applicant.
>
> In Orders 97-020 and 98-010, I also adopted several principles found in B.C. Order 124-1996. I said that an annotation or linkage must be apparent on the file. A public body must not try to hide or bury an applicant's request for correction. The correction request should be as visible and accessible as the information under challenge, and should be retrieved with the original file. In addition, I stated that the public body should not be forced to comply with unreasonable demands of an applicant who, "in voluminous material and in nuisance fashion" insists the documents be edited in exactly the way he or she wishes. Rather, the annotation or linkage should be made in a fair manner. What is considered "fair" will depend on the type of records involved, the length of the correction requested by the applicant, the applicant's other avenues of redress within the public body, such as appeals, and the administrative resources of a public body.

[para 33] As it was not clear to me that the Public Body had annotated or linked the Applicant's requested correction in the manner described in the foregoing order, I wrote the Public Body to ask questions that would help me to understand its position regarding what constitutes "annotation". I stated:

> The question becomes: "what is a requested correction" within the terms of section 36(3)? It appears that the Public Body considers the "requested correction" in [the Applicant's] request to be the portion where he asked that the Public Body delete his personal information, and the remaining information in the request to be superfluous. However, section 36 does not contemplate that a public body will *delete* information at the request of an applicant, but *correct* it. Correcting information may be taken as involving removing inaccurate information and replacing it with accurate information. In my view, the phrase "requested correction" in section 36(3) likely refers to the personal information the applicant considers to be accurate and seeks to have substituted by making a request under section 36(1).
>
> The Applicant *did* request a deletion of his information, but at the same time, he provided his own version of the facts. Arguably, it is implicit from this that not only did he want the personal information with which he disagreed deleted, but the personal information he supplied substituted for it. The personal information he supplied, i.e. that he was charged, but acquitted of assault, that he is not involved in a relationship with a lengthy history of domestic violence, and that he does not have access to rifles, is arguably as much a part of the correction request as his request that the Public Body delete the statements he considered to be inaccurate.

[para 34] In response to my questions regarding its annotation of the Applicant's personal information, the Public Body stated:

> In order to determine whether the content of the annotation in question is appropriate, it is important to start with the actual request for correction that was made by the Applicant. In that regard we must look at the plain wording of what [the Applicant] requested the public body to do. In his request dated July 1, 2014 he stated:

> The aforementioned three most serious falsehoods constitutes a **dangerous escalation of this matter, and should be immediately deleted** from these reports. (Emphasis in original)
> I further request that all the falsehoods in the two subject reports be deleted as soon as possible. (Emphasis in original)

> [The Applicant] did not ask the Public Body to include any additional information in the report or to change the report in any way other than to delete the offensive comments. Had [the Applicant] asked the Public Body to change the report to include additional information that would have been included in the annotation.
>
> Section 36(3) requires linkage of the "requested correction" to the record. It does not require the Public Body to assume what an applicant might have wanted included in a correction.
>
> It is submitted that it would be patently unfair to a public body to require it to enter the mind of an applicant to determine what they might or might not want done in the face of a clear instruction from the applicant for the correction.
>
> Certainly if a request for a correction was submitted and it was unclear or ambiguous with respect to what was being sought, it would be incumbent on the public body to make further inquiries and to work with the applicant to ensure that the public body properly understood the correction request. Upon satisfying itself that the request was understood, the public body would then be able to make a decision regarding the correction. If the decision was not to correct, the public body could annotate the record with the request as clarified by the applicant.
>
> Clarifying an ambiguous request is part of the duty of a public body to make every reasonable effort to assist applicants and to respond to each applicant openly, accurately and completely. Reading the applicant's mind or deciding that what the applicant really wants is something different than what the applicant plainly stated in their request for a correct[ion] is holding the public body up to too high a standard and is unreasonable.
>
> At no time during the course of this inquiry did [the Applicant] ever ask for anything other than deletion of the portions of the report he found offensive. In the submissions he provided to this inquiry, he went on at length about issues he is having with [his former wife's sister] and with his [former wife] and his dissatisfaction with the police officers who arrested him but at no time did he indicate that he wanted a correction that would involve adding to the report.

[para 35] I acknowledge the Public Body's concern that it would be an impossible task to contact all applicants who have given clear instructions for correction to determine whether they are seeking something other than what their correspondence indicates they are seeking.

[para 36] However, I note that the Applicant attached his letter of April 28, 2014 to the letter of July 1, 2014. The April 28, 2014 letter refers to the same statements for which he had requested deletion in the July 1, 2014 letter as "misleading", provides additional information regarding the statements, and requests *correction* of them, rather than deletion. This letter states:

> For my daughter's safety and my own, I request that the CPS immediately correct the many false and misleading statements in these reports and provide credible evidence that this has been done.

The Applicant then provided additional information he considered relevant to the statements in the FVIRQ.

[para 37] The April 28, 2014 letter can be interpreted as bringing what the Applicant regarded as an omission to the Public Body's attention and requesting correction of the omission. As a result, the Public Body had a request for correction before it, as well as a request for deletion.

[para 38] I also note that in the Applicant's July 1, 2014 request he cited the preceding excerpt from his April 28, 2014. As a result, there is internal inconsistency in his July 1, 2014 request, as the Applicant may be viewed as requesting both correction and deletion of the same information. In my view, the Applicant's request is consistent with what the Public Body describes as "[…a request for correction [that is] unclear or ambiguous with respect to what was being sought […]" and which is the kind of request the Public Body states that it has a duty to clarify.

[para 39] It is not necessary in this case to determine whether the added information the Applicant brought forward to demonstrate the need for a correction/deletion of his information is an 'omission' within the terms of the Act, or whether this term in the context of the statute has a narrower meaning such that it refers to an indisputable or patently obvious omission or clerical error, such as, for example a word or words missed in recording or copying information. This is because the result would be the same whether the additional information is an "omission" or not – that is, in neither case would I order an alteration of the original records in such a way as to obliterate or destroy their original content. The question for me is whether this information as put forward by the Applicant forms (or appeared to form to a sufficient degree to trigger the duty to clarify) part of his correction request. If the answer is yes, then this information should be added, whether by way or correcting an omission, or by refusing a correction but adding the required annotation.

[para 40] I also acknowledge that in some circumstances applicants may seek corrections in such a manner that it is impossible to isolate the precise information they believe is erroneous or missing. In such cases, it may be too onerous to require a public body to sort this out, or even to work with the applicant to do so when their seems to be no reasonable prospect this would succeed. Here, however, the Public Body had no difficulty identifying the points I have discussed, as it isolated them clearly in its response to the Applicant.

[para 41] Again, the Applicant expressed concerns that the three statements in the FVIRQ were misleading or untrue and provided information he considered to reflect a complete and accurate answer to the questions in the FVIRQ. The conclusion I draw from the Applicant's letters of April 28 and July 1, 2014 is that he considered the information in the FVIRQ to be misleading because it did not reflect the information he believes to be true, which is that he was acquitted of the charge to which the FVIRQ refers. I also draw the conclusion that he sought to have the information in the FVIRQ corrected, because he

was concerned that it created the impression that he had a lengthy history of criminal violence and access to guns, which he disputes.

[para 42] With regard to the statement in the FVIRQ that there is "a long history of violence between the two", the Applicant wishes to clarify that there was only one incident of violence and that he was not the perpetrator. With regard to the statement that the Applicant has access to some rifles" the Applicant states that the rifles in question are heritage rifles and in the custody of the Public Body.

[para 43] I note that the Senior Constable who completed the FVIRQ and who provided affidavit evidence for the inquiry did not dispute the truth of the Applicant's statements. Rather, he explains why he completed the FVIRQ in the way he did. In my view, the statements of the Senior Constable in the FVIRQ and the statements of the Applicant are not contradictory: both may be true. However, if the statements of the Applicant, (which the public body does not dispute) are annotated or linked to the FVIRQ, then his concerns will have been addressed.

[para 44] The FVIRQ was prepared by the Senior Constable to document the way in which he assessed and dealt with a complaint of abuse. This record forms part of the Public Body's investigation as to whether a complaint was founded. As such, the record is evidence of the manner in which a police force performed its public duties. Such a document cannot reasonably be corrected by altering, tampering with, or otherwise obliterating the information it contains. In addition, the record was not prepared in order to make a decision directly affecting the Applicant within the terms of section 35. As a result, I conclude that the FVIRQ cannot be corrected by altering its content, but that the relevant portions of the Applicant's correction request must be linked or annotated to the information in the FVIRQ in accordance with section 36(3).

[para 45] As discussed above, I consider the information the Applicant provided to the Public Body to dispute the accuracy of the statements in the FVIRQ to be relevant portions of his correction request, as these contain the information the Applicant considers ought to have been included in the FVIRQ but were not.

[para 46] As the Public Body has not yet linked or annotated all the relevant portions of the Applicant's access request to the FVIRQ, as required by section 36(3), I must order it to do so.

III. ORDER

[para 47] I make this Order under section 72 of the Act.

[para 48] I order the Public Body to link or annotate the following portion of the Applicant's correction request to the FVIRQ, in such a way that it is clearly visible as described in Order 2000-007:

Some of the most serious falsehoods are in the Investigative Details summary, which states:

- that I was charged with common assault, but fails to mention that I was found not guilty and exonerated by Judge Semenuk, who believed me and rejected the evidence given by my wife, in effect saying that she lied and I told the truth.

- that "there is a long history of domestic violence between the two" – there was only ever one incident of violence, when my wife violently assaulted me on October 17, 2012 and I did not retaliate, and she called 911 and falsely claimed she had been assaulted. The Police carefully examined her and found she was completely unmarked, but were duped into accepting her obvious lies and arrested me without interviewing me.

- that I have access to firearms, which I do not – my two "heritage" firearms are in the hands of the police and will remain there until this matter is settled.

[para 49] I order the Public Body to notify me in writing**,** within 50 days of being given a copy of this Order, that it has complied with it.

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Teresa Cunningham
Adjudicator