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Some Twitter accounts not personal information, Alberta privacy commission rules

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An adjudicator with Alberta's Office of the Information and Privacy Commissioner (OIPC) has ruled the provincial education ministry can provide the names of blocked Twitter accounts if they "lack a personal dimension," a decision an expert in privacy law is calling surprising.

An application was made to Alberta Education to provide a list of Twitter users or accounts that had been blocked for each Twitter account operated or authorized by the ministry. Although some information was provided, Alberta Education applied s. 17(1) of the provincial *Freedom of Information and Protection of Privacy Act* (FOIP), which prevents the disclosure of information harmful to personal privacy.

But adjudicator Teresa Cunningham [determined](#) there was insufficient evidence to establish that the names of blocked Twitter accounts had a personal dimension. As a result, she found that s. 17(1) did not require Alberta Education to withhold this information and directed them to provide access to it.

"A Twitter account name is the name of an account, rather than the name of an individual," she wrote. "While some individuals may use their names as the name of their Twitter account, others do not. In addition, organizations and bots may also use Twitter accounts."

Cunningham found the name of a Twitter account "cannot be said to have a personal dimension necessarily, even though an account may have the appearance of being associated with an identifiable individual." She noted the Alberta Court of Appeal in *Edmonton (City) v Alberta (Information and Privacy Commissioner) 2016 ABCA 110* considered for information to be "personal information" it must be found to be "about a person," as opposed to "about a thing."

"When I review the information severed [by Alberta Education], I am unable to say that it is likely to be about an identifiable individual, as it is unknown whether any of the information is, in fact, associated with an identifiable individual," she wrote. "With regard to the names and photographs that appear to be of individuals, I am unable to find, on the evidence before me, that the accounts with which they are associated are actually being used by these individuals, or that the name of the account and the image associated with it, are about the same individual."

Cunningham wrote it was impossible to tell from the severed information whether identifiable individuals are associated with account names such that the applicant could learn personal details about any such individuals by obtaining the information.

"As it is not clearly the case that the accounts severed under s. 17 are associated with identifiable individuals, and there is no requirement that a Twitter user use his or her own name or image, or be a human being, the fact that the Twitter account was blocked does not necessarily reveal personal information about an identifiable individual," she wrote.

As a result, Cunningham ruled if there is evidence establishing that an e-mail address or a Twitter account is connected to an identifiable individual, and the e-mail address or Twitter account appears in a context that reveals personal information about the individual, then the information is personal information and s. 17 applies. However, where the e-mail address or Twitter account lacks a personal dimension, or does not clearly have a personal dimension, and no other information would be revealed about an identifiable individual if the information is disclosed, then s. 17 is not applicable to the e-mail address or Twitter account.

Beryl Cullum with Alberta Education said in a statement the department "values the importance of transparency and access to information."



Pina D'Agostino, IP Osgoode

"At the same time, we must make every reasonable effort to protect the personal privacy of individuals, as required by law," she said. "With access requests, department staff have a mandatory requirement to withhold personal information if the disclosure would result in an invasion of an individual's personal privacy."

Cullum said Alberta Education staff "erred on the side of protecting privacy by withholding Twitter accounts that appeared to reveal personal information" in responding to a request for information in 2016. She said the department is reviewing the order and will respond to the commissioner as required.

But Pina D'Agostino, founder and director of the Intellectual Property Law and Technology Program at Osgoode Hall Law School (IP Osgoode), said she "totally disagreed" with the idea that Twitter accounts, whether they be "bots" or have very little information about an individual, are not personal information, noting a search on the Internet can easily identify someone's geographic location.

"I was surprised by the ruling," she said. "I've never seen this restrictive a definition of personal information in this era of the Internet and social media. To be so cavalier about the definition is somewhat problematic, especially when you think about all the other issues we are dealing with such as cyberbullying and trying to protect people and eradicate all this behaviour."

D'Agostino said, by utilizing algorithms, you can figure out a person's identity even if it isn't explicitly their name.

"Twitter handles are often versions of a person's name, so anything you can associated with the person you can identify with the person," she said. "If you look at the definition of personal information, it isn't just your name and age, it includes things like race. So, any type of connection you can make you can identify someone, and we do have digital tools to do that."

But D'Agostino said the parameters of what is personal information are a matter of interpretation and it could be read a Twitter account is personal information within the parameters of s. 17 of the FOIP Act.

"I don't even think the law needs to change. They just landed on the wrong side," she said. "I think if you ask anybody if they think a Twitter account is personal information, the response you would get is yes."

Scott Sibbald, communications manager for the privacy commissioner's office, said in an e-mail, "The results of an order decided by an adjudicator speaks for itself."

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