



Mistaken Identity

The perils of publishing surveillance photos of the wrong person

By Elliott Goldstein

Q What happens when surveillance photos of the wrong person are published?

A That depends on who has released the surveillance photographs and how the error was made. A case in point is reported on the Web site of the Federal Privacy Commissioner under the title, "Bank accused of providing police with surveillance photos of the wrong person."¹

The facts are unusual but not inconceivable. A woman's picture appeared in a newspaper accompanied by an article describing a crime and referring to the person in the picture (that is, the woman) as a suspect in that crime. But it was all a big mistake.

MEDIA MAYHEM

The bank had given the wrong picture to the police, who gave it to Crime Stoppers, who gave it to the newspaper to publish in a "Crime of the Week" article. When the article appeared, many people recognized the woman. She received a number of calls from worried friends and relatives inquiring about her trouble with the police. Unfortunately, some of the woman's acquaintances became suspicious and distrustful of her.

Worried about the affect the pictures would have on her reputation and her business, the woman complained to the bank, Crime Stoppers and the newspaper, as well as to the Federal Privacy Commissioner. Crime Stoppers apologized and ran a newspaper story retracting their original article. The newspaper ran a front-page story explaining that the woman had been the victim of "mistaken identity." The bank, the municipal police and Crime Stoppers all issued formal, written apologies to the woman.

How could such a mistake occur? Well, let's just say that the bank forgot

to set their clocks to the same time. Or, more specifically, "[O]n the day in question, the clock for the surveillance camera had been correct, but the clock for the bank's journal roll had been 12 minutes slow. (A bank's journal roll is a computerized central record of all transactions, including times, at any given teller's station.)"

"The complainant's transaction at the bank had preceded the cashing of the stolen cheques by approximately 12 minutes. Hence, when security staff later forwarded the videotape to the time the journal roll indicated for the cheque cashing, it was the complainant's image, not the alleged criminal's, that appeared. Thus the error was the result of a failure on the bank's part to have detected the lack of synchronization between the two clocks."²

JUDGING JURISDICTION

The woman complained to the Federal Privacy Commissioner because he has jurisdiction, as banks are "federal works, undertakings, or businesses" as defined in the *Personal Information Protection and Electronic Documents Act* (PIPED Act).³

After investigating the complaint, the federal Privacy Commissioner was able to reassure the woman that the photographs had appeared only in the one newspaper article. He then applied the PIPED Act to the facts and concluded that the bank should have made sure that the information it disclosed was as accurate as possible. In failing to do so, the bank contravened the PIPED Act.

The Federal Privacy Commissioner also determined the following:

1. The personal information inaccurately disclosed by the bank was used

to make a decision about the complainant – specifically, an erroneous decision to the effect that she was to be sought as a prime suspect in a crime.

2. The decision caused the complainant embarrassment and worry about her reputation and her livelihood.
3. Being well aware of the fact that the police would likely use the complainant's personal information to make a decision about her status as a suspect, the bank should have taken due care to ensure that the information was accurate so as to minimize the possibility of a wrong decision with adverse consequences.

4. Due care was by no means taken.⁴

By failing to "take due account of the potential consequences of inaccurate information," the bank had also contravened the PIPED Act.

In the end, "both the police and Crime Stoppers admitted that they had failed to follow normal verification procedures in the case, and both have since collaborated in instituting measures to prevent similar occurrences. The bank, too, has instituted procedural changes to verify times on surveillance tapes and journal rolls."

This case does more than simply point out the importance of synchronizing those clocks. It also shows us that we must do our work carefully and with due regard to the privacy rights of others. You see, it is not only their reputations and livelihoods that may be jeopardized by the disclosure of inaccurate information, it is ours as well. 🍁

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Author's Notes

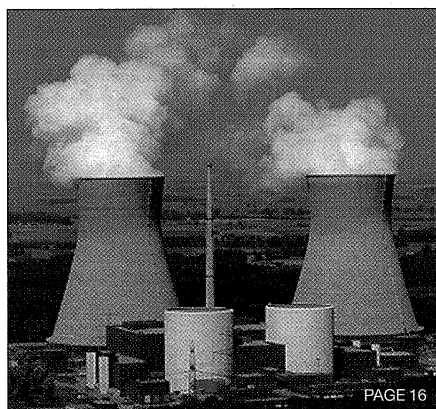
1 See www.privcom.gc.ca/index_e.asp and click on "Commissioner's Findings," then look under the date June 28, 2002. All quotations are taken from this article.

2 See above.

3 To view this Act, see www.privcom.gc.ca/index_e.asp and then click on "Privacy Legislation."

4 See Author's Note 1.

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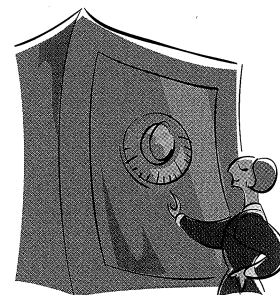
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