



Information and Privacy
Commissioner/Ontario

Commissaire à l'information
et à la protection de la vie privée/Ontario

INVESTIGATION REPORT

INVESTIGATION I93-012P

THE MINISTRY OF COMMUNITY AND SOCIAL SERVICES

June 15, 1993



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INTRODUCTION

Background of the Complaint

This investigation was initiated as a result of a complaint concerning the Ministry of Community and Social Services (the Ministry).

An employee at one of the Ministry facilities complained to the Information and Privacy Commissioner/Ontario that the Ministry had improperly disclosed his personal information. According to the complainant, in August 1992 he had written to the Executive Assistant (the EA) of the Ministry's Southwest Regional Office and had enclosed a number of documents with the letter (the records). In the letter, the complainant had made a number of allegations regarding his treatment by various staff at the facility. The complainant stated that he had asked the EA not to send the records or show them to anyone else. According to the complainant, he had telephoned the EA about four days after he had delivered the records to inquire whether the EA intended to conduct an investigation based on the additional information contained in the records. The EA had advised him that he did not plan to conduct an investigation but that he had sent the records to the Acting Administrator at the facility (the Administrator). It was the complainant's view that the EA had disclosed his personal information contrary to the provisions of the Freedom of Information and Protection of Privacy Act (the Act).

Issues Arising from the investigation

The following issues were identified as arising from the investigation:

- A. Was the information in question "personal information" as defined in section 2(1) of the Act?
- B. If yes, was the disclosure of the personal information in accordance with section 42 of the Act?

RESULTS OF THE INVESTIGATION

Issue A. Was the information "personal information" as defined in section 2(1) of the Act?

Section 2(1) of the Act states, in part:

"personal information" means recorded information about an identifiable individual, including,

...

- (d) the address, telephone number, fingerprints or blood type of the individual,
- (h) the individual's name where it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual;

We have reviewed copies of the records. They identified the complainant by name and contained information which satisfied the requirements of paragraphs (d) and (h) of the definition of "personal information" in section 2(1) of the Act.

Conclusion: The information in question was "personal information" as defined in section 2(1) of the Act.

Issue B. Was the disclosure of the personal information in accordance with section 42 of the Act?

According to the Ministry, the complainant had telephoned the Regional Office in July 1992, and had made a number of allegations regarding his employment at the facility. The complainant had spoken to the EA who had discussed the allegations with the acting Regional Director and the matter had then been referred to the Administrator. The Administrator had investigated the complainant's allegations and had advised the complainant of the results of the investigation by letter, dated July 31, 1992. During the course of the investigation, the complainant had been advised that the investigation resulted from the telephone call he had made to the EA at the Southwest Regional Office.

The Ministry stated that on August 10, 1992, the complainant visited the Regional Office and left an envelope addressed to the EA, marked "confidential" and with the words, "Investigate this", written on it. The envelope contained the records which appeared to the EA to be related to the matter that the complainant had complained about in July, therefore he sent the records to the Administrator.

The Ministry stated that the complainant telephoned the EA on August 11, 1992, and asked the EA if he had read the material. The complainant repeated in general terms the allegations he had made in July and the EA advised the complainant to take up the matter with the Administrator. The complainant again telephoned the EA on October 13, 1992, and asked the EA about the records. The EA advised him that he had sent the records to the Administrator. The complainant then advised the EA that if he had wanted the Administrator to see the records, he would have sent them directly to the Administrator.

According to Ministry, in the EA's judgement, the records were related to the complainant's previous allegations about his employment at the facility. There was no indication that the records were not to be sent to the Administrator. The envelope was addressed to the EA, and

marked "confidential" and had the words, "Investigate this", written on it. Therefore, the EA sent the records to the Administrator who had been responsible for the investigation of the complainant's previous allegations. The Ministry has stated that it relied on section 42(d) of the Act for sending the records to the Administrator.

Section 42(d) of the Act states:

An institution shall not disclose personal information in its custody or under its control except,

- (d) where disclosure is made to an officer or employee of the institution who needs the record in the performance of his or her duties and where disclosure is necessary and proper in the discharge of the institution's functions;

One of the Ministry's functions includes the supervision and management of its employees. Therefore, the Ministry had an obligation to investigate the allegations made by the complainant concerning his treatment by other staff. In order to conduct a proper investigation, the Ministry had to gather all the relevant evidence. As part of his duties, the Administrator had been responsible for the investigation of the complainant's previous allegations. The records appeared to the EA to be related to this previous investigation, therefore, he forwarded the records to the Administrator. In our view, the disclosure of the records to the Administrator was to an officer of the Ministry who needed them in the performance of his duties and was necessary and proper in the discharge of Ministry's functions. Therefore, the disclosure was in accordance with section 42(d) of the Act.

Conclusion: The disclosure of the complainant's personal information was in accordance with section 42(d) of the Act.

SUMMARY OF CONCLUSIONS

- o The information in question was "personal information" as defined in section 2(1) of the Act.
- o The disclosure of the complainant's personal information was in accordance with section 42(d) of the Act.

Original signed by: _____

June 15, 1993 _____

Ann Cavoukian, Ph.D.
Assistant Commissioner

Date