



Information and Privacy
Commissioner/Ontario
Commissaire à l'information
et à la protection de la vie privée/Ontario

INVESTIGATION REPORT

INVESTIGATION I93-041P

MINISTRY OF THE ATTORNEY GENERAL

August 31, 1993



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INTRODUCTION

Background of the Complaint

This investigation was initiated as a result of a complaint concerning the Ministry of the Attorney General, Police Complaints Commissioner (previously known as the Public Complaints Commissioner).

The complainant wrote a letter to the Chief of Police of Metropolitan Toronto in December of 1990. In the letter, she complained about the conduct of police officers, and the conduct of two doctors. The Deputy Chief of Police sent a copy of her letter to the Police Complaints Commissioner (the PCC), because the complaint involved police officers. However, the Metropolitan Toronto Police Force Complaint Act was not in effect at the time of the incidents involving the police officers, so the complaints about the police were not within the jurisdiction of the PCC. The PCC wrote to the Director of Investigations of the College of Physicians and Surgeons of Ontario (the College), enclosing a copy of the complainant's letter (with the names of the police officers severed), and a copy of the letter from the Deputy Chief of Police.

The Police Complaints Commissioner then wrote to the Deputy Chief of Police explaining that the complaints did not fall within his jurisdiction, stating that a copy of the complainant's letter had been sent to the College. The Police Complaints Commissioner also wrote to the complainant on December 19, 1990, explaining that her complaint did not fall under his jurisdiction. However, this letter did not mention that a copy of the complaint letter had been forwarded to the College.

Later, the College investigated the complaints about the doctors, and the complainant appealed the College's decision to the Health Disciplines Board (the Board). The Board received a copy of the College's file containing the copies of the complainant's letter and the letters from the Deputy Chief of Police and the PCC. When the complainant asked the Board for disclosure of records, she found copies of the correspondence, and believed that her privacy had been breached by the disclosure of her letter by the PCC to the College.

Issues Arising from the Investigation

The following issues were identified as arising from the investigation:

- (A) Did the complainant's letter contain her "personal information", as defined in section 2(1) of the Freedom of Information and Protection of Privacy Act (the Act)?

If the answer to the above question is yes,

- (B) Was the personal information disclosed by the PCC in accordance with section 42 of the Act?

RESULTS OF THE INVESTIGATION

Issue A: Did the complainant's letter contain her "personal information", as defined in section 2(1) of the Act?

Section 2(1) of the Act defines "personal information" as recorded information about an identifiable individual, including, but not limited to,

...

(b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,

...

(d) the address, telephone number, fingerprints or blood type of the individual,

(e) the personal opinions or views of the individual except where they relate to another 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;

In our view, the letter from the complainant contained recorded information about her. Most of this recorded information fell into two main categories:

1. information related to her complaints about the police;
2. information related to her complaints about the doctors.

The letter also contained other recorded information about the complainant that did not fall into either of these categories.

The recorded information about the complainant which related to her complaints about the police included:

- her view that she had been denied proper service and protection by the police;
- the fact that she had made previous complaints to the "Public Complaints Department"; the results of those complaints;

- the fact that she was arrested by the police for trespassing, and that she had to go to court;
- the fact that she was removed by the police from an alderman's office, from a mental health rehabilitation centre, and from a hospital;
- the fact that she felt harassed by the police and had made enquiries about how the police approached her.

In our view, the above information meets the definition of "personal information" in section 2(1) of the Act (i.e. recorded information about an identifiable individual).

The recorded information about the complainant which related to her complaints about the doctors included:

- the fact that she had been hospitalized at a named hospital on certain dates;
- her view that she had not been treated in a professional manner by two doctors, and her account of what had taken place at the hospital;
- the fact that "medical affairs" at the hospital refused to investigate her complaints;
- the fact that a certain drug had been prescribed for her.

In our view, the above information meets the definition of "personal information" in section 2(1) of the Act (i.e. recorded information about an identifiable individual).

Other recorded information about the complainant that was not related to her complaints about the police or doctors included:

- the fact that the complainant was facing eviction from her home, and that she was to appear in court;
- her view that she felt pressured on all sides;
- her name and address;
- the fact that she had made complaints about personnel at a mental health rehabilitation centre.

In our view, the above information meets the definition of "personal information" in section 2(1) of the Act (i.e. recorded information about an identifiable individual).

In summary, the complainant's letter contained her personal information, relating to her complaints about the police and the doctors, and also contained other recorded information about her, not related to either of these complaints. In our view, this recorded information meets the definition of personal information in section 2(1) of the Act.

Conclusion: The complainant's letter contained her "personal information" as defined in section 2(1) of the Act.

Issue B: Was the personal information disclosed by the PCC in accordance with section 42 of the Act?

Section 42 of the Act sets out the rules for disclosure of personal information other than to the individual to whom the information relates. This section provides that an institution shall not disclose personal information in its custody or under its control, except in the circumstances listed in paragraphs (a) through (p). We have examined the provisions of these sections, and determined that only paragraph 42(c) applied to the disclosure of the personal information in the circumstances of this case. Section 42(c) states:

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

...

(c) for the purpose for which it was obtained or compiled or for a consistent purpose;

...

In determining whether the Act was breached, we considered the two main categories of personal information contained in the letter (i.e. information relating to the complaints about the police and information relating to the complaints about the doctors), as well as the other recorded information about the complainant that did not fall into these two categories.

The complainant believed that the disclosure of the letter containing her personal information by the PCC to the College breached her privacy. The PCC's position was that the letter had been disclosed in accordance with section 42(c) of the Act, for a consistent purpose. In our view, in order for the disclosure to have been made for a consistent purpose, the disclosure must be reasonably compatible with the purpose for which the personal information was obtained or compiled.

In response to our draft report, the complainant stated her view that there was no consistent purpose in the PCC's disclosing her letter to the College. She went on to say that the action of the PCC was of no benefit to the College, that the College was not assisted by the efforts of the PCC and that she did not believe any investigation of her complaints about medical personnel was done by the PCC. However, in our view, the PCC could not control how the matter of the complaints might eventually be handled by the College, or whether the complainant might ultimately be satisfied with the results. Therefore, although we have carefully considered the complainant's position, in our view, **the situation at the time the letter was forwarded** to the College is the situation that we must consider in determining whether the disclosure was made for a consistent purpose.

The situation at the time the letter was forwarded to the College was that the complainant's letter was originally sent to the PCC by the Deputy Chief of Police for the purpose of having the PCC investigate the complaints that were contained in the letter. Therefore, the PCC obtained the letter for the purpose of investigating the complaints.

In our view, the disclosure of the complainant's personal information relating to her complaints about the doctors **was** reasonably compatible with the purpose for which the PCC obtained the complaint letter. The PCC had originally received the letter in order to investigate her

complaints, and the College had the jurisdiction to investigate the complaints about the doctors. Since we find that the disclosure of the complainant's personal information relating to the complaints about the doctors was reasonably compatible with the purpose for which the personal information was obtained, we find that the disclosure was made in accordance with section 42(c) of the Act, for a consistent purpose.

Although the PCC was unable to investigate the complaints, because they were not within the PCC's jurisdiction, the PCC was aware that another investigative body (the College) had the jurisdiction to investigate complaints about doctors, and therefore, the PCC forwarded the letter of complaint to the College.

However, the College, as we understand its mandate, does not have the jurisdiction to investigate complaints about police officers. Therefore, in our view, the disclosure of the complainant's personal information relating to her complaints about the police **was not** reasonably compatible with the purpose for which the PCC obtained the letter. Since we find that the disclosure of the complainant's personal information relating to her complaints about the police was not reasonably compatible with the purpose for which the personal information was obtained, we find that the disclosure was not made in accordance with section 42(c) of the Act, for a consistent purpose.

Similarly, we find that the disclosure of the personal information relating to other matters, such as the complainant's being evicted, and her view that she felt pressured, **was not** reasonably compatible with the purpose for which the personal information was obtained, since the College could not investigate these matters. Since we find that these disclosures were not reasonably compatible with the purpose for which the personal information had been obtained, we find that these disclosures were not made in accordance with the section 42(c) of the Act, for a consistent purpose.

In response to our draft report, the complainant stated her view that her name and address were not disclosed to the College by the PCC in accordance with the Act. We have carefully considered the complainant's view, including whether her complaint could have effectively been dealt with had her identity remained anonymous. However, in our view, the College would need to be able to identify the complainant and contact her to respond to her complaints. As mentioned previously, we have considered **the situation at the time the letter was forwarded** in taking this view.

The purpose for which the College had obtained the complainant's name and address was to identify her, and respond to her complaint. Therefore, we find that the disclosure of the complainant's name and address to the College was reasonably compatible with the purpose for which it had been obtained by the PCC, which was to identify the complainant, and respond to her concerns. Since we find that the disclosure of the complainant's name and address was reasonably compatible with the purpose for which the personal information was obtained, we find that the disclosure was made in accordance with section 42(c) of the Act, for a consistent purpose.

Conclusions: The personal information relating to the complaints about the doctors was disclosed by the PCC in accordance with section 42 of the Act.

The personal information relating to the complaints about the police was not disclosed by the PCC in accordance with section 42 of the Act.

The personal information not relating to the complaints about the police or doctors was not disclosed by the PCC in accordance with section 42 of the Act.

The complainant's name and address were disclosed by the PCC in accordance with section 42 of the Act.

SUMMARY OF CONCLUSIONS

- The complainant's letter contained her "personal information" as defined in section 2(1) of the Act.
- The personal information relating to the complaints about the doctors was disclosed by the PCC in accordance with section 42 of the Act.
- The personal information relating to the complaints about the police was not disclosed by the PCC in accordance with section 42 of the Act.
- The personal information not relating to the complaints about the police or doctors was not disclosed by the PCC in accordance with section 42 of the Act.
- The complainant's name and address were disclosed by the PCC in accordance with section 42 of the Act.

RECOMMENDATIONS

In making our recommendations, we acknowledge that the PCC forwarded the complainant's complete letter to the College with the intention of providing a service to the complainant (i.e. to try to ensure that her complaints were brought to the attention of the proper investigative body). We also acknowledge that the PCC severed the names of the police officers from the letter, with a view to protecting their privacy.

We recommend the following procedures be incorporated into the PCC's complaint process:

1. that when the PCC receives a complaint and forwards it to another investigative body with the proper jurisdiction to investigate the complaint, the PCC sever any personal information that is not related to the complaint and is not necessary to the proper administration of the complaint;

2. that the PCC advise individuals if their complaints are being forwarded to another investigatory body.

Within six months of receiving this report, the PCC should provide our Office with proof of compliance with the above recommendations.

Original signed by: _____
Susan Anthistle
Compliance Review Officer

August 31, 1993 _____
Date
