



Information and Privacy  
Commissioner/Ontario

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

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# INVESTIGATION REPORT

INVESTIGATION I93-011M

A REGIONAL POLICE SERVICE

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**July 21, 1993**



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## **INTRODUCTION**

### **Background of the Complaint**

This investigation was initiated as a result of a complaint concerning a Regional Police Service (the Police).

The complainant filed a complaint with the Police's internal Investigation Unit which handles public complaints against police personnel. During the course of investigating the complaint, two investigating officers met with the complainant. The complainant stated that in this meeting the investigating officers indicated that they knew she had made a request for access to information (access request) under the Municipal Freedom of Information and Protection of Privacy Act (the Act), and the details of that request. The complainant stated that this information must have been disclosed to and by these two officers, contrary to the Act. However, apart from the two officers, the complainant was not able to specifically identify the parties involved.

In addition, the complainant learned that five individuals with the Police had received a copy of her access request. The complainant has submitted that these five individuals (whom she identified as three police personnel and two superintendents) disclosed her personal information to other individuals either within or outside of the Police, contrary to 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) Was the personal information disclosed to the investigating officers by the Police and, if so, was the disclosure in accordance with section 32 of the Act?
- (C) Was the personal information disclosed by the investigating officers to any other individual, and, if so, was this disclosure in accordance with section 32 of the Act?
- (D) Was the personal information disclosed by the five individuals identified by the complainant, and, if so, was the disclosure in accordance with section 32 of the Act?

## **RESULTS OF THE INVESTIGATION**

**Issue A:** Was the information in question "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, symbol or other particular assigned to the individual,

...

(h) the individual's name if it appears with some other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual;

The information in question is the fact that the complainant filed an access request with the Police and the details of the access request. The access request contained her name, address, and telephone number. In our view, this information meets the requirements in paragraph (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 personal information disclosed to the investigating officers by the Police and, if so, was the disclosure in accordance with section 32 of the Act?

According to the Police, when the complainant filed the complaint against the Police, she provided material that, to the investigating officers' knowledge, could only have been obtained through an access request under the Act. This material included a partial transcript of a police dispatch recording.

The Police informed us that while investigating the complainant's complaint against the Police, the investigating officers interviewed the complainant. During the course of this interview several items were discussed including the information that the complainant had filed with her complaint, and her access request. One of the investigating officers stated that, in these discussions, the complainant advised that she had made an access request under the Act. He also stated that the complainant was upset that some questions he asked of her related to information that she had not received under her access request.

The Police maintained that the investigating officers became aware that the complainant had made an access request based upon the material filed by the complainant when she made her complaint, and not through a disclosure of the access request itself by the Police.

Having considered the information provided by the Police and the complainant, we are of the view that the two investigating officers learned that the complainant had filed an access request based upon their consideration of the material filed with the complaint and the information under discussion during the interview with her. In our view, the Police did not disclose the access request itself to the investigating officers.

**Conclusion:** The personal information was not disclosed to the investigating officers by the Police.

**Issue C:** Was the personal information disclosed by the investigating officers to any other individual, and, if so, was this disclosure in accordance with section 32 of the Act?

The complainant has questioned whether the investigating officers disclosed her personal information to any other individual.

The Police have informed us that the investigating officers disclosed the complainant's personal information to their direct Supervisor. However, this disclosure was limited to the fact that the complainant had filed an access request. It did not include details of the access request itself. The Police have stated that the officers and the Supervisor did not disclose this information to anyone else.

The Police have relied upon section 32(d) of the Act for this disclosure. This section states:

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

...

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

...

The Police informed us that the investigating officers' Supervisor had the responsibility of ensuring that his staff thoroughly investigated all public complaints. Based upon these investigations, the Supervisor must make a formal recommendation to the Chief of Police as to whether a member of the Police should be disciplined. Therefore, the Police maintained that the Supervisor must be aware of all circumstances surrounding an investigation. The Police submitted that section 32(d) of the Act applied.

It is our view that conducting investigations of complaints against the Police, as set out in Part VI of the Police Services Act, is a function of the institution. In our view, the Supervisor needed all of the information related to the complaint investigation in the performance of his duty of ensuring thorough investigations of complaints and determining matters of discipline. This

information would include the fact that the complainant had made an access request to obtain some of the material she filed with her complaint against the Police. In our view, this disclosure was to a Police officer who needed the record in the performance of his duties and was necessary and proper in the discharge of one of the Police's functions. Therefore, the disclosure was in accordance with section 32(d) of the Act.

**Conclusion:** The personal information was disclosed to the investigating officers' Supervisor in accordance with section 32(d) of the Act.

**Issue D:** Was the personal information disclosed by the five individuals identified by the complainant, and, if so, was the disclosure in accordance with section 32 of the Act?

The complainant did not provide any evidence to substantiate her claim that the five individuals (who she identified as three police personnel and two superintendents) disclosed her personal information to other individuals either within or outside of the Police.

The Police contacted the police personnel and the superintendents to determine if they had disclosed the complainant's personal information to any other individual. Of these five individuals, four stated that they had not disclosed the complainant's personal information to anyone else. However, one superintendent informed the Police that he had provided an inspector, who was the immediate supervisor of one of the five individuals, with a copy of the complainant's access request, for the purpose of instructing that inspector to obtain the necessary records for the access request. The superintendent did not disclose the personal information to anyone other than this inspector. The Police also informed us that the inspector did not disclose the personal information to anyone other than to the individual under his supervision.

We have reviewed section 32 of the Act and, in our view, none of the provisions apply to the disclosure of the access request. The Police have acknowledged that there was no need to disclose the complainant's access request, in its entirety, to the inspector. The Police no longer distribute a copy of the access request when requesting records. Instead, the relevant Police personnel are advised that an access request has been received and that certain records are required.

**Conclusion:** One of the five individuals identified by the complainant disclosed the complainant's personal information to an inspector, contrary to section 32 of the Act.

## SUMMARY OF CONCLUSIONS

- The information in question was personal information as defined in section 2(1) of the Act.
- The personal information was not disclosed to the investigating officers by the Police.

- The personal information was disclosed to the investigating officers' Supervisor in accordance with section 32(d) of the Act.
- One of the five individuals identified by the complainant disclosed the complainant's personal information to an inspector, contrary to section 32 of the Act.

## **RECOMMENDATIONS**

Since the Police have already implemented changes in the manner in which access requests are processed, we do not think it is necessary to make any further recommendations.

Original signed by: \_\_\_\_\_  
Susan Anthistle  
Compliance Review Officer

July 21, 1993 \_\_\_\_\_  
Date

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