



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

INVESTIGATION REPORT

INVESTIGATION I93-076P

MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS



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INTRODUCTION

Background of the Complaint

This investigation was initiated as a result of a complaint concerning the Ministry of Consumer and Commercial Relations (the Ministry), specifically the Registrar General Branch.

The complainant had been legally adopted at a young age. The adoption order stated that her name was to be officially changed to that of her adoptive parents. According to the Ministry, section 28(2) of the Vital Statistics Act and section 158 of the Child and Family Services Act, provide that if a child has been adopted, that child is considered to have been born to the adoptive parent, and the child's adoptive name becomes that child's "surname at birth".

When the complainant had a child, she and her husband completed a Form 2, a "Statement of Live Birth" form, as required by the Vital Statistics Act. The Form 2 asked for the mother's surname at birth. The Form 2 did not specify that if a person had been adopted, the person's surname at birth was the adoptive name. Since most members of the public, including the complainant, would not have been aware of this, the complainant provided what she understood to be her surname at birth (i.e. her pre-adoptive name) and not her adoptive name. She provided her adoptive surname under "Other surname(s)" on this Form 2. The surname at birth on the Form 2 is the name keyed into the registration data base as the mother's maiden name and is also shown as the mother's maiden name on an extended birth certificate.

The complainant stated that when her husband visited the Registrar General Branch to obtain an extended birth certificate for their son, he gave her maiden name as he knew it to be (i.e. her adoptive name), to the clerk. However, without requesting prior identification from the complainant's husband, the clerk told him that the complainant's maiden name listed on her child's birth registration (which was actually her pre-adoptive surname at birth), was different from the name he had given. The name he had given was shown on the registration under "Other surname(s)". The clerk then told the complainant's husband, the name that was listed on the birth registration as the surname at birth/maiden name. Since the clerk released this name to her husband, without either requesting identification from him or asking him to provide the name, the complainant was concerned about the access to, and the security of, her personal information held by the Registrar General Branch.

The complainant was also concerned about the accuracy of the Registrar General Branch records since her pre-adoptive name, which was shown as her surname at birth on her son's birth registration, was keyed onto the registration data base as her maiden name.

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 Freedom of Information and Protection of Privacy Act (the Act)? If yes,

- (B) Were reasonable measures defined, documented and put in place to prevent unauthorized access to the records containing personal information, in accordance with section 4(1) of Ontario Regulation 460, as amended by Regulation 532/93?

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) states, in part:

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

- (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;** (emphasis added)

The information in question was the complainant's surname at birth, as she understood it to be (i.e. her pre-adoptive name). By disclosing this name as her maiden name to the complainant's husband, the Registrar General Branch revealed that the complainant's maiden name as recorded in its official records was different from the maiden name (i.e. her adoptive name) that he had provided. It also revealed other personal information about the complainant, including the fact that she had had a change of name sometime in the past.

In our view, the information in question met the requirements of paragraph (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: Were reasonable measures defined, documented and put in place to prevent unauthorized access to the records containing the personal information, in accordance with section 4(1) of Ontario Regulation 460, as amended by Regulation 532/93?

Section 4(1) of Ontario Regulation 460, as amended by Regulation 532/93, states:

Every head shall ensure that reasonable measures to prevent unauthorized access to the records in his or her institution are **defined, documented and put in place**, taking into account the nature of the records to be protected. (emphasis added)

The complainant was concerned about the security of her personal information. She stated that her husband had not been required to provide the clerk at the Registrar General Office, with the

name that matched the name on the birth certificate, before the information was released to him. In addition she was concerned about access to her personal information since the clerk released the information without verifying the identity of the applicant, her husband.

We were unable to determine the exact circumstances surrounding this incident, i.e., what, if any, appropriate measures were taken by the clerk before releasing the information to the complainant's husband.

The Registrar General Branch assured us that its staff were trained on, and were acutely aware of, the importance of ensuring a person's identity prior to the release of personal information. The staff were also told that applicants must provide specific information to prove entitlement to the personal information they were seeking. However, the Registrar General Branch had no written procedures or policies regarding these steps for ensuring that there was no unauthorized access to personal information in its records.

It is, therefore, our view that while reasonable measures to prevent unauthorized access to records were "defined" and "put in place", they were not "documented" as required by section 4(1) of Regulation 460.

Conclusion: Reasonable measures to prevent unauthorized access were "defined" and "put in place", but not "documented", as required by section 4(1) of Regulation 460, as amended by Regulation 532/93.

Other Matters

The complainant was also concerned about the accuracy of the records at the Registrar General Branch. The Registrar General Branch informed us that the Statement of Live Birth form (Form 2) was reviewed by Legislative Counsel in 1986 when certain amendments were made to the Vital Statistics Act. One of the amendments to the Form 2 was that the mother's "surname at birth" was required instead of the "maiden surname of child's mother".

We were advised that, currently, the surname at birth on the Form 2 is the name keyed into the registration data base as the mother's maiden name. The complainant's name prior to her adoption was shown on her son's birth registration as her surname at birth and on her son's birth certificate as her maiden name. As in this case, a mother's actual surname at the time of her birth may not necessarily be the same as her current surname at birth (i.e. her adoptive name) and her maiden name.

The Registrar General Branch informed us that it has become aware of the difficulties associated with the wording on the Form 2. It has recognized that there is a need to amend the form. A forms committee is presently looking at the particular terminology used on this form. However, since the Form 2 is a prescribed form, any changes to the wording must be legislated. The Registrar General Branch stated that it is currently working on a joint filing with the Ministry of Health; a Health Card number will be assigned when a birth is registered. The Registrar General Branch suggested that any changes to the Form 2 could be included in this reform of the birth registration process.

The Registrar General Branch has proposed that, in the interim, the next time the birth registration forms are being reprinted, an instruction on the back of the Form 2 will be added, specifying that if the person has been adopted, the person's adoptive name should be given as the "surname at birth".

In our view, there could be other cases, similar to this one, where the incorrect maiden name is shown on an extended birth certificate because the mother was unaware that when the Form 2 asked for her surname at birth, it meant her adoptive surname and not her actual surname at birth, thereby giving rise to a serious privacy concern. Thus, while we acknowledge that the Registrar General Branch's proposal is an appropriate short term solution to this matter, it is our view that the wording of the the Form 2 should be amended.

SUMMARY OF CONCLUSIONS

- The information in question was personal information as defined in section 2(1) of the Act.
- Reasonable measures to prevent unauthorized access were "defined" and "put in place", but not "documented" as required by section 4(1) of Ontario Regulation 460, as amended by Regulation 532/93.

RECOMMENDATIONS

We recommend to the Ministry that the Registrar General Branch "document" those measures that have been defined and put in place to prevent unauthorized access to records in its custody and control, in accordance with section 4(1) of Ontario Regulation 460, as amended by Regulation 532/93.

Within six months of receiving this report, the Ministry should provide the Office of the Information and Privacy Commissioner with proof of compliance with the above recommendation.

Original signed by:
Susan Anthistle
Compliance Review Officer

February 28, 1994
Date