



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

INVESTIGATION REPORT

INVESTIGATION I93-119P

MINISTRY OF TRANSPORTATION



80 Bloor Street West,
Suite 1700,
Toronto, Ontario
M5S 2V1

80, rue Bloor ouest
Bureau 1700
Toronto (Ontario)
M5S 2V1

416-326-3333
1-800-387-0073
Fax/Télé: 416-325-9195
TTY: 416-325-7539
<http://www.ipc.on.ca>

INTRODUCTION

Background of the Complaint

This investigation was initiated as a result of a complaint concerning the Ministry of Transportation (the Ministry). The complainant had applied to renew his driving licence at a Ministry of Transportation licensing office administered by a private issuer. Private issuers are under contract to the Ministry to issue driver licences and motor vehicle permits under subsection 7(11) of the Highway Traffic Act.

The complainant wished to pay for his licence by cheque. The private issuer requested the complainant's telephone number, as a condition for acceptance of his cheque. The complainant stated that his cheque was eventually accepted, without the collection of his telephone number. However, the complainant obtained from the Ministry a copy of their policy on cheque acceptance. He objected to the statement "Issuers may accept cheques at their discretion, but must follow Ministry policy if they do so." The complainant's concern was that in his view, this statement allowed private issuers unlimited discretion to collect any type of personal information from driver licence applicants, in contravention 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? If yes,
- (B) Did the private issuer collect the personal information on behalf of the Ministry in accordance with section 38(2) 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 defines "personal information", in part as:

recorded information about an identifiable individual, including,

- (d) the address, **telephone number**, fingerprints or blood type of the individual, (emphasis added)

It is our view that the complainant's telephone number met the requirements of paragraph (d) of the definition of "personal information" in section 2(1) of the Act.

Conclusion: The complainant's telephone number was personal information as defined in section 2(1) of the Act.

Issue B: Did the private issuer collect the personal information on behalf of the Ministry in accordance with section 38(2) of the Act?

In order to determine if private issuers are governed by the Act, either as "institutions" under the Act or as "agents" of the Ministry, we reviewed a copy of the Memorandum of Agreement which is a contract between the Minister of Transportation and private issuers. Under Paragraph 1 of the Memorandum, the Minister appoints the issuer to be an agent of the Minister to issue motor vehicle permits. Under paragraph 1 of the Addendum to the Memorandum, the issuer is appointed to issue driver licences.

Paragraph 2 of the Memorandum states that the issuer will comply with all legislation governing the issuance of permits and licences; with the Ministry's manuals, policies, instructions and directives, and with the Ministry's reporting requirements in a manner that allows immediate revenue reconciliation. Paragraph 13 states, in part, that the issuer will not engage in any activity or business in which the issuer's interests will conflict with the interests of the Ministry, and paragraph 2 of the Addendum states that the issuer shall comply with all legislation and regulations governing the issuance of drivers' licences as set out in the policies, procedures and directives published from time to time by or under the authority of the Minister.

It is our view that, therefore, private issuers may be considered to be agents of the Ministry for the purposes of the Act, as it relates to the collection of personal information for the purposes of issuing driver licences and motor vehicle permits.

Section 38(2) of the Act states:

No person shall collect personal information on behalf of an institution unless the collection is expressly authorized by statute, used for the purposes of law enforcement or **necessary to the proper administration of a lawfully authorized activity**. (emphasis added)

Under Ministry policy, private issuers may accept cheques at their discretion, provided that they follow the criteria for accepting cheques. An acceptable cheque must include the signature of the account owner (or authorized person), bank name, branch and account number. It must be legible, made payable to the Minister of Finance etc. The Ministry's policy does not state that an acceptable cheque must also have the telephone number of the applicant.

The complainant advised that subsequent to conversations with Ministry staff, and with individuals at the private issuer's licensing office, he was able to pay for his licence by cheque, without having to provide his telephone number. The complainant, however, was of the view that the collection of personal information for acceptance of cheques should be restricted to only the information essential to the renewal of the licence. He felt that the Ministry's policy on the

acceptance of cheques should be revised so that private issuers could not request telephone numbers, or other such personal data.

The Ministry was of the opinion that private issuers, as small business operators, should be allowed flexibility in the conduct of their business, and that the revision of the policy to define precisely what information may be collected, as suggested by the complainant, would be too intrusive. Nevertheless, the Ministry stated that they had no intent or desire to collect telephone numbers from driver licence applicants, and that it was not a common practice to do so.

In our view, the issuance of drivers' licences and motor vehicle permits by private issuers on behalf of the Ministry is a lawfully authorized activity. It is also our view that the collection of personal information for the acceptance of a cheque such as the signature of the account owner, the name of his/her bank, branch and account number, is necessary to the process of issuing a driver's licence or a motor vehicle permit. The collection of this information is, therefore, in accordance with section 38(2) of the Act. However, it is our view that the collection of the telephone number is not necessary to the issuance of a licence or a permit. In this case, the private issuer, on behalf of the Ministry, did not collect the complainant's telephone number for cheque acceptance. If the private issuer had done so, the collection of this personal information would not have been in accordance with section 38(2) of the Act.

Conclusion: If the private issuer had collected, on behalf of the Ministry, the complainant's telephone number for cheque acceptance, the collection of this personal information would not have been in accordance with section 38(2) of the Act.

SUMMARY OF CONCLUSIONS

- The complainant's telephone number was personal information as defined in section 2(1) of the Act.
- If the private issuer had collected, on behalf of the Ministry, the complainant's telephone number for cheque acceptance, the collection of this information would not have been in accordance with section 38(2) of the Act.

RECOMMENDATIONS

During the course of this investigation, the Ministry offered to send an electronic bulletin to all private issuers, stressing that the only criteria for accepting cheques were those listed in the policy. In our view, this action would minimize the likelihood of future requests by private issuers for applicants' telephone numbers. The Ministry also offered to send a paper copy of the bulletin to the complainant.

We, therefore, recommend that the Ministry:

1. Implement its proposal to issue an electronic bulletin to all private issuers, stressing that the only criteria for accepting cheques are those listed in the Ministry's cheque acceptance policy and to send a paper copy to the complainant. The electronic bulletin should include a reference to section 38(2) of the Act.
2. Send a copy of this report to the private issuer who requested the complainant's telephone number.

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 recommendations.

Original signed by: _____
Susan Anthistle
Compliance Review Officer

April 29, 1994 _____
Date
