



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

INVESTIGATION REPORT

INVESTIGATION I94-037M

A POLICE SERVICES BOARD

August 22, 1994



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/Téloc: 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 a police services board (the Police).

The complainant had applied for a renewal of a Firearms Acquisition Certificate (FAC) with the Police. Around the time that the complainant had made the application for renewal, he underwent elective surgery. Due to the nature of the surgery, the Ministry of Transportation temporarily suspended his driving privileges.

During the course of processing the complainant's renewal application for the FAC, the Police did a check with the Canadian Police Information Centre (CPIC). The complainant's CPIC printout indicated that his driving privileges had been suspended for medical reasons. When questioned by the Police as to why his driver's licence had been suspended for medical reasons, the complainant said that he had undergone surgery and was recovering. The Police then collected from the complainant a copy of a letter containing his medical information, written by his doctor. The complainant then received his FAC.

The complainant was concerned that the collection of his medical information by the Police was contrary to the Municipal 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 by section 2(1) of the Act? If yes,
- (B) Did the Police collect the personal information in accordance with section 28(2) of the Act?

RESULTS OF THE INVESTIGATION

Issue A: Was the information in question "personal information", as defined by 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,

- (h) the individual's name if 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;

The information in question was contained in a letter written by the complainant's doctor. It included the complainant's name, address, medical information, and information regarding the duration of his disability. It also identified the division of the hospital associated with the complainant's surgery and doctor, thereby identifying the nature of his surgery.

It is our view that this information 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: Did the Police collect the personal information in accordance with section 28(2) of the Act?

Section 28(2) of the Act states:

(2) 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)

The Police have stated that the Criminal Code of Canada is the lawful authority for the collection of the complainant's personal information. Section 106(1) of the Criminal Code of Canada states:

Where a firearms officer who has received an application for a firearms acquisition certificate and the fee prescribed by regulation does not, after considering the information contained in the application, any further information that is submitted to the firearms officer pursuant to a requirement under subsection (9) and such other information as may reasonably be regarded as relevant to the application, have notice of any matter that may render it desirable in the interests of the safety of the applicant or of any other person that the applicant should not acquire a firearm, the firearms officer shall, subject to subsection (2), and after at least twenty-eight days have elapsed since the application was received, issue a firearms acquisition certificate to the applicant.

Section 106(9) of the Criminal Code of Canada states:

A firearms officer who has received an application for a firearms acquisition certificate may require the applicant to submit such further information in addition to that included in the application as may reasonably be regarded as relevant for the purpose of determining whether there is any matter that might

render it dangerous for the safety of the applicant or of any other person if the applicant acquired a firearm.

It is our view that processing an application for an FAC, with a view to granting or denying the FAC, is a lawfully authorized activity.

It is also our view that the collection of further information that is relevant to making a determination regarding approval or denial of the FAC, is necessary to the proper administration of processing the application for the FAC.

In this case, the Firearms Clerk was aware that the complainant's driving privileges had been suspended for medical reasons. In consideration of the safety of the applicant, i.e. the complainant, and any other person, the Police were required to ensure that there was no reason why the complainant should not acquire a firearm. In our view, in order to do this, it was necessary for the Police to obtain more specific information regarding the medical reasons which were the cause of the suspension of the complainant's driver's license.

Therefore, in our view, the Police's collection of the medical note, containing the complainant's personal information, was necessary to the proper administration of the lawfully authorized activity of processing, and approving or denying, the application for the FAC. It is, thus, our view that the collection of the complainant's personal information was in accordance with section 28(2) of the Act.

Conclusion: The collection of the complainant's personal information was in accordance with section 28(2) of the Act.

SUMMARY OF CONCLUSIONS

- The information in question was personal information as defined in section 2(1) of the Act.
- The collection of the personal information was in accordance with section 28(2) of the Act.

Original Signed by: _____
Susan Anthistle
Compliance Review Officer

August 22, 1994
Date