



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

INVESTIGATION REPORT

INVESTIGATION I94-048M

A REGIONAL POLICE



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INTRODUCTION

Background of the Complaint

This investigation was initiated as a result of a complaint concerning a regional police force (the Police).

The complainant, a private in the Canadian Armed Forces, was driving a military vehicle when he was stopped by a police officer for a traffic violation. The Police Officer requested the complainant's name, birth date, home address and driver's licence. The complainant provided his name, birth date, military base address and his military driver's licence, Form DND-404. The Police Officer requested the complainant's Ontario driver's license issued by the Ministry of Transportation (MTO) under the Highway Traffic Act. The complainant refused to provide the MTO driver's license. The Police Officer then checked the complainant on the Canadian Police Information Centre (CPIC) by using his name and birth date. CPIC provided the Police Officer with the complainant's home address and his MTO driver's licence number. The Police Officer then wrote the complainant a Provincial Offences Notice ticket (the Ticket) for the traffic violation, using the MTO driver's license number.

The complainant stated that the Police should have accepted his military driver's license and should not have collected his MTO driver's license number from CPIC. He was concerned that the Police's collection and use of this information 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 in section 2(1) of the Act? If yes,
- (B) Was the Police's collection of the personal information in compliance with section 28(2) of the Act?
- (C) Was the Police's use of the personal information in compliance with section 31 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,

- (a) information relating to the race, national or ethnic origin, colour, religion, **age**, sex, sexual orientation or marital or family status of the individual,
- (c) any identifying number, symbol or other particular assigned to the individual,
- (d) the address, telephone number, fingerprints or blood type of the individual,

The information in question was the complainant's name, birth date, home address and MTO driver's licence number.

It is our view that this information met the requirements of paragraphs (a), (c), and (d) 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 Police's collection of the personal information in compliance with section 28(2) of the Act?

Under the Act, personal information cannot be collected except in the specific circumstances outlined in section 28(2) of the Act which 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)

The Police stated that they are responsible for enforcing and regulating compliance with the Criminal Code of Canada as well as provincial and municipal legislation. CPIC is a national repository of police operational information that is a vital resource shared within Canadian law enforcement agencies. The Police advised us that CPIC is a tool used by police in carrying out their duties as dictated by the Police Services Act. For example, it is a regular procedure to run a CPIC check on a person stopped by a police officer for a driving violation. CPIC is used to ascertain if a person is wanted on a criminal warrant, for an investigation, or is a suspended driver. CPIC also gives officers pertinent information needed for public and officer safety. The CPIC system gives information about whether a person is violent or a possible suicide risk.

The Police advised us that the complainant's name and birth date were collected from the complainant for the purpose of checking the CPIC system to see if the complainant had been suspended from driving, and for the purpose of issuing the Ticket for the traffic violation. The complainant's MTO driver's license number was collected from CPIC by the Police Officer also for the purpose of issuing the Ticket for the traffic violation. The Police stated that all of the complainant's personal information was collected to be used for the purpose of law enforcement, in compliance with section 28(2) of the Act.

In our view, the complainant's name and birth date were collected during the course of the Police Officer's duties as a law enforcement officer, further to the Police Services Act. The collection was for the purpose of checking the CPIC system regarding whether the complainant had been suspended from driving, and to prepare a complete Ticket. Since the complainant's name and birth date were used for the purposes of law enforcement, it is our view that the collection of this personal information was in compliance with section 28(2) of the Act.

In our view, the Police collected the complainant's MTO driver's license number to issue him a ticket for his traffic violation, for the purpose of enforcing the Highway Traffic Act. Since the Police used the complainant's MTO driver's license number for the purposes of law enforcement, it is our view that the collection of this personal information was in compliance with section 28(2) of the Act.

With regard to the collection of the complainant's home address, the Ticket contained the complainant's military address and not his home address. In our view, in order for a **collection** to have taken place, retention of the information in a recorded form must occur. Since the Police Officer did not record the complainant's home address on the Ticket, the collection of the complainant's home address in a recorded form did not take place and section 28(2) of the Act did not apply.

Conclusion: The Police collected the complainant's name, birth date, and MTO driver's license number in compliance with section 28(2) of the Act.

The Police did not collect the complainant's home address, therefore, section 28(2) of the Act did not apply.

Issue C: Was the Police's use of the personal information in compliance with section 31 of the Act?

Under the Act, personal information in the custody and control of an institution cannot be used except in the specific circumstances outlined in section 31 of the Act .

The Police stated that they relied upon section 31(b) of the Act as its authority for the use of the complainant's personal information. This section states that an institution shall not use personal information in its custody or under its control except "for the purpose for which it was obtained or compiled or for a consistent purpose".

The Police used the complainant's name and birth date to check the CPIC system to determine whether the complainant had been suspended from driving, and to complete the Ticket for the traffic violation. In Issue B we found that the complainant's name and birth date were collected by the Police for the purposes of law enforcement. Since the complainant's name and birth date were used for the purpose for which they were obtained by the Police, their use was in compliance with section 31(b) of the Act.

The Police informed us that information available from CPIC is used to detect, prevent and suppress crime and to enforce of the law. The Police Officer used the complainant's MTO driver's license number for the purpose of issuing the complainant a ticket for a traffic violation

under the Highway Traffic Act. Since the complainant's MTO driver's license number was collected for use for law enforcement purposes, it is our view that the complainant's personal information was used for the purpose for which it was obtained by the Police, in compliance with section 31(b) of the Act.

Conclusion: The Police used the complainant's personal information in compliance with section 31 of the Act.

Other Matters

The complainant stated that he thought that the Police Officer should have accepted his military license instead of his MTO driver's license number, in order to complete the Ticket. However, since there was no collection and use of the complainant's military driver's license under the Act, its provisions do not apply to this matter and we are unable to comment further.

The Police, nevertheless, advised us that they felt that they should clarify their "Policy and Procedure" which deals with military drivers and vehicles for police officers. Therefore, the Police are in the process of reviewing the National Defence Act and other relevant legislation, to determine whether the present "Policy and Procedure" should be revised.

SUMMARY OF CONCLUSIONS

- The information in question was personal information as defined in section 2(1) of the Act.
- The Police collected the complainant's name, birth date and MTO driver's license number in compliance with section 28(2) of the Act.

The Police did not collect the complainant's home address, therefore, section 28(2) of the Act did not apply.

- The Police used the complainant's personal information in compliance with section 31 of the Act.

Original Signed By: _____
Susan Anthistle
Compliance Review Officer

December 22, 1994
Date
