



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

INVESTIGATION REPORT

INVESTIGATION I94-045M

A MUNICIPALITY

October 25, 1994



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INTRODUCTION

Background of the Complaint

This investigation was initiated as a result of a complaint concerning a Municipality.

The complainant sent a letter to the Municipality's Manager of Administration and Records and Freedom of Information Co-ordinator (Co-ordinator) requesting certain general records. The letter contained the complainant's name, address, telephone number, the fact that he was a Canadian citizen and a description of the general records requested. Although the complainant directed his request to three named employees of the Municipality, he specifically noted in his letter that "this request is completely confidential, so it is not necessary for those listed below (i.e., the three named employees) to know who is requesting the information."

To ensure that his identity would remain confidential, the complainant provided the Co-ordinator with separate sheets of paper outlining the information he was requesting from each of the three employees. These sheets excluded any reference to the complainant.

The complainant stated that, contrary to his request for confidentiality, the Co-ordinator gave his letter in its entirety to the Director of Administration for the Community Services Department (the Director), one of the three employees to whom he had requested his identity not be disclosed. The complainant was concerned that this disclosure 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 Municipality's disclosure of the personal information in compliance 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, fingerprints or blood type of the individual,
- (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;

The complainant's letter to the Municipality contained his name, address, telephone number, the fact that he was a Canadian citizen, and that he was requesting certain general records.

It is our view that the information in the complainant's letter met the requirements of paragraphs (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 Municipality's disclosure of the personal information in compliance with section 32 of the Act?

Under the Act, an institution shall not disclose personal information in its custody or under its control except in the circumstances outlined in section 32. (See Appendix I for the text of section 32.)

The Municipality submitted that because the complainant had not stated in his letter that he was requesting the information under the Act, "it was decided to have the department which maintains the records/information reply directly to (the named complainant)".

The Municipality advised that it had a set procedure that was to be followed when the inquiry was not considered a request under the Act. It stated that it is normal practice, in this regard, to "forward a copy of the request to an individual of the department which maintains the records being the subject of the request", and that "only those involved in responding to a request are aware of the identity of the requester."

The Municipality also stated that the complainant had, on other occasions, corresponded directly with the Director and other staff of the Community Services Department on the subject matter of the general records requested, and that previous requests made by the complainant on this matter had been directed to the appropriate staff upon receipt.

We examined the complainant's letter. While it did not contain any reference to the Act and although the complainant may have previously corresponded directly with the Director and other staff of the Community Services Department, in this case, he clearly specified that "this request is completely confidential ...". By sending his request in confidence, the complainant clearly did not wish his identity to be known to anyone outside the Co-ordinator's office. Further, the Municipality did not indicate why the complainant's identity was required by the Director in order for him to respond to the complainant's request for general records.

We examined the provisions under section 32 of the Act and found that none applied to the Municipality's disclosure of the complainant's personal information to the Director.

Conclusion: The Municipality's disclosure of the complainant's personal information was not in compliance with 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 Municipality's disclosure of the complainant's personal information was not in compliance with section 32 of the Act.

RECOMMENDATION

The Municipality should take steps to ensure that when it receives a request for records, the Municipality does not disclose the requester's personal information, except where the disclosure is in compliance with section 32 of the Act.

Within six months of receiving this report, the Municipality 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

October 25, 1994
Date

APPENDIX A

32. An institution shall not disclose personal information in its custody or under its control except,
- (a) in accordance with Part I;
 - (b) if the person to whom the information relates has identified that information in particular and consented to its disclosure;
 - (c) for the purpose for which it was obtained or compiled or for a consistent purpose;
 - (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;
 - (e) for the purpose of complying with an Act of the Legislature or an Act of Parliament, an agreement or arrangement under such an Act or treaty;
 - (f) if disclosure is by a law enforcement institution,
 - (i) to a law enforcement agency in a foreign country under an arrangement, a written agreement or treaty or legislative authority, or
 - (ii) to another law enforcement agency in Canada;
 - (g) if disclosure is to an institution or a law enforcement agency in Canada to aid an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result;
 - (h) in compelling circumstances affecting the health or safety of an individual if upon disclosure notification is mailed to the last known address of the individual to whom the information relates;
 - (i) in compassionate circumstances, to facilitate contact with the next of kin or a friend of an individual who is injured, ill or deceased;
 - (j) to the Minister;
 - (k) to the Information and Privacy Commissioner;
 - (l) to the Government of Canada or the Government of Ontario in order to facilitate the auditing of shared cost programs.