



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

---

---

# **INVESTIGATION REPORT**

## **INVESTIGATION I95-001M**

### **A POLICE SERVICES BOARD**

---

---



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 stated that he and two other individuals had been the subject of an investigation conducted by the Police on January 17, 1994. This investigation had been initiated at the request of their former employer (the employer). As a result of the investigation, an occurrence report had been prepared by the Police. No charges, however, were laid against the complainant or the other individuals. The complainant later made an access request to the Police, under the Municipal Freedom of Information and Protection of Privacy Act, (the Act), for a copy of the occurrence report. He received a copy with the personal information of the other individuals severed from it.

On the same day that the Police had conducted its investigation, the complainant had been dismissed from his employment. The complainant subsequently filed a wrongful dismissal complaint with the Ontario Labour Relations Board (the OLRB). A mediation hearing between the complainant, the employer and an OLRB representative was held to determine whether the dispute could be settled without going to a possibly lengthy hearing.

As part of the process, the lawyers for the parties to the dispute exchanged documents. Among the documents given by the employer's lawyer to the complainant's lawyer was an unsevered copy of the occurrence report.

The complainant stated that he did not authorize the Police to release the occurrence report to his former employer and was concerned that the disclosure of his personal information was contrary to the provisions of 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 disclosure of the complainant's 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 defines "personal information", in part, as:

recorded information about an identifiable individual, including

...

(d) the address, telephone number, finger prints 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 information in the occurrence report included the complainant's name together with his date of birth, address, telephone number and other information about him . It is our view that this information met the requirements of paragraphs (d) and (h) of the definition of "personal information" in section 2(1) of the Act.

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

**Issue B: Was the disclosure of the complainant's personal information in compliance with section 32 of the Act?**

The Police stated that the investigating officers would have prepared the occurrence report using the WordPerfect computer system. A printout of that document would have then been given to an operator who would have entered the information into the Ontario Municipal and Provincial Police Automation Cooperative (OMPPAC) system which is managed by the Ministry of the Solicitor General and Correctional Services, and is shared by a number of police services across Ontario and the Ontario Provincial Police. It is an on-line system that can be used by any police service that is authorized to access OMPPAC.

The Police, however, acknowledged that the occurrence report released to the complainant as a result of his access request was not a record that was generated from OMPPAC; it was a printout of the WordPerfect document created by the investigating officers. We compared this copy of the occurrence report with the one that had been provided by the employer's lawyer to the complainant's lawyer. The two documents appeared to have been copied from the same source, i.e. the WordPerfect printout. The two documents were identical except that the copy which the complainant had obtained through his access request had the personal information of the other individuals severed.

The Police informed us that the investigation officers did not recall releasing a copy of the occurrence report to the employer and that the only means by which the employer might have received a copy of the occurrence report was by filing an access request under the Act.

The Freedom of Information and Privacy Co-ordinator for the Police, however, stated:

... at no time did I, acting in my capacity as Freedom of Information & Protection of Privacy Coordinator, release a copy of our occurrence report #1490015 to the [named employer] or its representatives. Further, I have never received a request from the [named employer] or its representatives. As well a copy of this report was not released from the Records Department of the [named] Police to the [named employer] or its representatives at any time.

The Police also stated that they contacted the employer and was advised that the personal information released to the complainant's lawyer was information that was compiled from the complainant's employment records. We contacted the employer who stated that since the privacy legislation did not apply to them, they preferred not to comment as to how they might have obtained a copy of the occurrence report.

Although we are unable to determine conclusively how the employer obtained a copy of the occurrence report, based on the information available to us, it is our view that in all likelihood it was the Police who provided a copy to them, thereby disclosing the complainant's personal information.

Under the Act, an institution cannot disclose personal information in its custody or under its control except in the specific circumstances outlined in section 32. (The full text of section 32 is given in Appendix A.)

We have examined the provisions of section 32 and it is our view that none applied in the circumstances of this case. Therefore, the Police's disclosure of the complainant's personal information to the employer was not in compliance with section 32 of the Act.

**Conclusion:** The Police's disclosure was not in compliance with section 32 of the Act.

## SUMMARY OF CONCLUSIONS

- The information was the complainant's personal information, as defined in section 2(1) of the Act.
- The Police's disclosure was not in compliance with the section 32 of the Act.

## RECOMMENDATIONS

We recommend that the Police take steps to ensure that in future, all disclosures of personal information are made in compliance with the Act.

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

Original Signed By: \_\_\_\_\_  
Susan Anthistle  
Compliance Review Officer

March 7, 1995  
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.