



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

INVESTIGATION REPORT

INVESTIGATION I95-046M

A POLICE SERVICES BOARD

October 20, 1995



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INTRODUCTION

Background of the Complaint

This investigation was initiated as a result of a complaint concerning a Police Services Board (the Board). The complainant, who was a probationary constable in the Basic Constable Level II program at a police college (the College), had been dismissed by the Board.

The Board's Chair had then issued a news release to the media, stating that the Board had terminated the complainant's probationary employment. Attached with the news release were two documents: a copy of a letter to the Chief of Police from the Director of the College; and a copy of the Board's Resolution to terminate the complainant's probationary employment.

The complainant particularly objected to the disclosure of the letter, and to the first paragraph of the Resolution. The letter contained considerable details about the complainant's behaviour at the College and the first paragraph of the Resolution set out the reason for his dismissal. According to the complainant, the statements in the letter and Resolution concerning his alleged misconduct were unproven but that as a result of their disclosure, this matter became the subject of television newscasts, radio reports, and newspaper articles in many centres.

The complainant stated that the Board's disclosure had caused extreme embarrassment to himself and his family and undue harm to his reputation and character, and had limited his career opportunities. The complainant believed that the Board's disclosure contravened his right to privacy, 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 personal information disclosed 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 as recorded information about an identifiable individual, including,

- (g) the views or opinions of another individual about the individual, and
- (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 letter of April 10, 1995 to the Chief of Police from the Director of the College contained the complainant's name together with information about him relating to his alleged misconduct at the College, for example, that he had been found unfit for duty on two occasions due to apparent excessive consumption of alcohol. In addition, the letter contained the views of the writer including her opinion that the complainant appeared to lack self control to determine his own limits. The first paragraph of the Resolution also stated that the complainant had been found unfit for duty twice because of alcoholic consumption.

The Board submitted that "No doubt some of the information contained in the letter from the ... College was embarrassing to [the complainant]. However, ... that does not mean the information constitutes personal information as defined in the Act."

In response to our draft report, the Board reiterated its position that no "personal information" was involved. However, we remain of the view that information contained in the letter and in the Resolution met the requirements of either paragraph (g) or (h) of the definition of "personal information" in section 2(1) of the Act.

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

Issue B: **Was the personal information disclosed in compliance with section 32 of the Act?**

In our letter notifying the Board of this complaint, we asked the Board to give us a statement of its position on this matter.

The Board indicated that it was its opinion that:

... no personal information was released. In the alternative, if any personal information was released, it was done in furtherance of its [the Board's] statutory duty under the Police Services Act regarding dismissal of a probationary officer.

However, the Board did not explain how its disclosure to the media would have fulfilled this statutory obligation and no further representations on this issue was provided in response to our draft report.

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 of the Act. (See Appendix A.)

We have carefully considered the limited information received from the Board, and it is our view that none of the provisions of section 32 of the Act applied to the Board's disclosure of the complainant's personal information to the media.

Conclusion: The personal information was not disclosed in compliance with section 32 of the Act.

SUMMARY OF CONCLUSIONS

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

RECOMMENDATION

We recommend that the Board takes steps to ensure that personal information is not disclosed except in compliance with the provisions of the Act.

Within six months of receiving this report, the Board 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 20, 1995

Date

APPENDIX A

Section 32 of the Act states:

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.