



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

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# INVESTIGATION REPORT

INVESTIGATION I95-045P

THE MINISTRY OF COMMUNITY AND SOCIAL SERVICES

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October 18, 1995



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/Télé: 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 the Ministry of Community and Social Services (the Ministry).

The complainant, an employee at one of the Ministry's detention centres, believed that the Ministry had improperly destroyed handwritten notes created during a meeting he had attended on June 15, 1994. This meeting had been held to discuss correspondence from the complainant, specifically about his concerns regarding the sexual identity group and workplace harassment. Handwritten notes had been taken by one of the Ministry's (area) human resources staff member and later used to compose a "letter of Counsel" which was in the form of a memo dated June 28, 1994. This memo was sent to the complainant and a copy put on file.

The complainant stated that he had wanted corrections made to the handwritten notes but was informed that they had been destroyed shortly after the memo was prepared. The complainant believed that this was a contravention of the retention provisions of the 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 retained in accordance with the section 5(1) of Regulation 460 under 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,

- (e) the personal opinions or views of the individual except where they relate to another 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;

We have determined that the information contained in the handwritten notes would have included the complainant's name and his views about certain sensitive issues. It is our view that this information would have met the requirements of paragraphs (e) 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 personal information retained in compliance with section 5(1) of Regulation 460 of the Act?**

Section 5(1) of Regulation 460 states:

Personal information that has been used by an institution shall be retained by the institution for at least one year after use unless the individual to whom the information relates consents to its earlier disposal.

The Ministry stated that the handwritten notes pertaining to the meeting of June 15, 1994, had been taken for the sole purpose of producing a "letter of Counsel", i.e., the memo dated June 28, 1994 which was sent to the complainant.

According to the complainant, the individual who took the handwritten notes was not the same person who prepared the memo. However, the Ministry stated that the individual who created the handwritten notes, also produced the memo and that once the memo had been written, she destroyed the notes since they "served no purpose". The Ministry also stated that keeping the handwritten notes would have been "a duplication of the information".

Since the notes no longer existed, we were unable to match the documents to determine if the memo contained the identical personal information that had been in the handwritten material. However, we noted that the memo appeared to be a "summary" of the issues discussed at the meeting, for example, reference was made to "one of your main concerns...". It would be reasonable, therefore, to conclude that the notes contained more specific information than the memo itself and that the memo did not "duplicate" the information the notes contained. We also noted that the complainant, after receiving a copy of the memo, had requested the notes because he wanted corrections made to them but not to the memo. In our view, this would imply that the information contained in the notes was not the exact information in the memo.

Therefore, it is our view that in the circumstances of this case, since personal information in the handwritten notes was used to prepare the memo and since the complainant did not consent to the notes' earlier disposal, under section 5(1) of Regulation 460, the Ministry was required to retain the notes for the prescribed minimum period of one year after using them to prepare the memo.

**Conclusion:** The personal information was not retained in accordance with section 5(1) of Regulation 460 of the Act.

#### **SUMMARY OF CONCLUSIONS**

- The information in question was "personal information" as defined in section 2(1) of the Act.
- The personal information was not retained in accordance with section 5(1) of Regulation 460 of the Act.

#### **RECOMMENDATION**

We recommend that the Ministry take steps to ensure that personal information is retained in accordance with the Act, for example, by reminding staff that personal information should be retained for a minimum period of one year after use, unless the individual to whom the information relates has consented to an earlier disposal.

Original signed by:  
Susan Anthistle  
Compliance Review Officer

October 18, 1995  
Date

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