



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

FINAL PRIVACY COMPLAINT REPORT

PRIVACY COMPLAINT

PC-010012-1

MEDIATOR

Jeannine Morin

INSTITUTION

Ministry of Health and Long Term Care

INTRODUCTION:

Background of the Complaint

This investigation was initiated as a result of a complaint against the Ministry of Health and Long Term (the Ministry) under the Freedom of Information and Protection of Privacy Act (the *Act*). It should be noted that the complainant and another individual rented an apartment from an employee of the Ministry (the employee).

The complainant alleges that the employee obtained access to, and inappropriately disclosed, sensitive personal information relating to the complainant as a direct consequence of the information privileges afforded to her through her employment at the Ministry.

Specifically, the complainant states that the employee told the complainant's friends and co-worker on or around January, 2001 that the complainant had a criminal record and was driving while under suspension; that the employee placed a call to police stating that the complainant was driving while suspension; that the employee was intercepting the complainant's mail; and that the employee had obtained the telephone number of the complainant's family outside of Canada and had advised that the complainant had a criminal record.

Efforts to informally address and resolve the concerns raised in the complaint during the Intake Stage of the process were not successful. The Intake Analyst did, however, advise the complainant to contact Canada Post and the Police with respect to the part of the complaint that addressed concerns around

the security of the complainant's mail.

DISCUSSION

In response to the complaint, the Ministry conducted an internal investigation.

Before even meeting with the employee, Ministry staff confirmed that the type of personal information referred to in the complaint was not information directly accessible by those in the particular Branch where the employee was posted.

The Ministry then met with the employee to discuss the substance of the complaint. Though the employee did not deny that she had knowledge of the type of personal information that was described in the complaint, the employee denied that she had obtained access to this information through her employment functions at the Ministry. The employee's manager confirmed that the employee did not have access to the type of information at issue. Further, the employee denied that she accessed this information from any other source in any other Ministry.

The Ministry submits that it is satisfied with the employee's response, and takes the position that the complaint is unfounded and that there has been no breach of confidentiality or the provisions of the *Act* as it relates to the employee's functions with the Ministry.

Issues arising from the IPC Investigation

Section 2(1) of the *Act* provides, in part:

"personal information" means recorded information about an identifiable individual, including,

(b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,

It is clear that the information in question is "personal information" as defined in section 2(1) of the *Act*.

The remaining issues to be considered are:

Issue A: Did the employee disclose the personal information, obtained through her privileges as an employee of the Ministry, of the complainant as described in the complaint?

Issue B: If so, was this disclosure in accordance with section 42 of the *Act*?

RESULTS OF THE INVESTIGATION

During the course of the investigation, the complainant requested that the Mediator review a copy of a police officer's notes that the complainant maintains were relevant to the incidents noted in the complaint. The complainant also provided the Mediator with a copy of an affidavit sworn by the other individual who shared the rented apartment with the complainant. In the opinion of the Mediator, these notes did not support the complainant's claims that (i) the employee accessed the complainant's personal information via her privileges at the Ministry and (ii) disclosed personal information relating to the complainant's criminal history to his friends, co-workers, and the Police.

In the course of investigating in what other ways the complainant's driving record could be accessed, the Mediator also contacted the Ministry of Transportation (MTO). It was confirmed that driving records could be accessed via the MTO database, but that criminal records, such as a charge of theft, were not accessible unless they were linked to an individual's driving record. The MTO also confirmed that anyone, including the employee, with the use of a personal computer could access its Web site and, providing they were willing to pay a fee for the search, obtain personal information regarding vehicle registration as well as driver related information, i.e. any individual's driving record. This information does not include the address of an individual.

Conclusion: There is not sufficient evidence to reasonably conclude that (i) the employee accessed the complainant's personal information using her privileges as an employee of the Ministry and (ii) disclosed personal information relating to the complainant's criminal history to his friends, co-workers, and the Police.

SUMMARY OF CONCLUSIONS:

- The information in question was personal information as defined in sections 2(1) of the *Act*.
- There is not sufficient evidence that the employee had access to the type of personal information in question as a result of her privileges as an employee of the Ministry, therefore could not disclose personal information of the complainant obtained in such a manner.
- As a result of the conclusion reached in Issue A, it is not necessary to address Issue B.

Mediator