



Information and Privacy
Commissioner/Ontario

Commissaire à l'information
et à la protection de la vie privée/Ontario

PRIVACY COMPLAINT REPORT

PRIVACY COMPLAINT PC-000037-1

Ministry of the Attorney General

August 2, 2001

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PRIVACY COMPLAINT NO. **PC-000037-1**

MEDIATOR: **Leslie McIntyre**

INSTITUTION: **Ministry of the Attorney General**

SUMMARY OF COMPLAINT:

The complainant contends that a Crown Attorney provided information about the complainant's criminal record to a local lawyer, who was involved in a lawsuit against the complainant and his company. The complainant provided a copy of an affidavit sworn by an employee of the lawyer, in the context of this litigation involving the complainant and the lawyer, in which the employee states that the lawyer met with "... the senior Crown Attorney, officers and a detective from the Barrie Police Services...", and "as a consequence of his meetings described above [the lawyer] has learned that [the complainant] is well known to the Barrie Police Services and has a criminal record ...".

According to the complainant, a sergeant at the Barrie Police Services Board (the Police) told him that a Detective advised him that it was the Crown Attorney who released the complainant's personal information to the lawyer.

DISCUSSION:

The information in question, relating to criminal history, is defined in section 2(1)(b) of the *Freedom of Information and Protection of Privacy Act (the Act)* as "personal information":

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

information relating to the education or the medical, psychiatric, psychological, **criminal** or employment **history of the individual...**

Disclosure of personal information must be in compliance with section 42 of the *Act*.

The Ministry has indicated that they discussed the complaint with the Crown Attorney and the Detective.

According to the Crown Attorney, the lawyer had gone to the Police with a complaint about a potentially libellous column the complainant intended to publish, and was advised by the Detective from the Police that he should speak with the Crown Attorney about the matter. When the lawyer approached the Crown Attorney, he was advised that he could either try to persuade the complainant not to publish the offending column, or seek a civil injunction.

Although the Crown Attorney acknowledges that he is familiar with the complainant, and is aware that the complainant was prosecuted a number of years ago for offences under the *Highway Traffic Act*, he is not aware of any criminal record or any other convictions regarding the complainant. The Ministry states that because the Crown Attorney was not aware of any criminal record of the complainant, he could not have disclosed it to anyone.

The Detective told the Ministry that he did not inform the complainant or anyone else that the Crown Attorney disclosed the complainant's personal information to the lawyer. When the complainant contacted the Detective directly and accused him of supplying the lawyer with his criminal record, the Detective reassured the complainant that he had not done so.

The Detective notes that in a discussion with the lawyer regarding his concerns about the complainant's column, the lawyer asked him if he was aware that the complainant had a criminal record. The Detective refused to respond to the question.

In my view, the lack of corroboration and the conflicting statements of the parties, make it impossible to determine with certainty which version of the facts is correct.

CONCLUSION:

Although we cannot conclude that the complainant's personal information was disclosed by the Crown Attorney to the lawyer, if such a disclosure had occurred, it would have been a breach of section 42 of the *Act*.

Original signed by:

Leslie McIntyre
Mediator

August 2, 2001