



**Information and Privacy  
Commissioner/Ontario**

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

---

---

# **INVESTIGATION REPORT**

## **INVESTIGATION I93-094P**

### **MINISTRY OF THE ATTORNEY GENERAL**

---

---



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/Télééc: 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 Office of the Public Trustee of the Ministry of the Attorney General (the Ministry). Specifically, the complainant was concerned that employee related personal information such as birth date and marital status, which was normally available only to personnel staff, was being disclosed to accounting staff when they accessed a computer data base.

### 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 accordance with section 42 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,

- (c) any identifying number, symbol or other particular assigned to 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 Ministry stated that the salary budget data base was the only computer data base in the Office of the Public Trustee that contained employee related personal information. The salary budget data base contained such information as the employee name, gender, social insurance number, and marital status. It is our view that this information met the requirements of paragraphs (c) and (h) of the definition of "personal information" in section 2(1) of the Act.

**Conclusion:** The information contained in the salary budget data base was personal information as defined in section 2(1) of the Act.

**Issue B: Was the "personal information" disclosed in accordance with section 42 of the Act?**

The Ministry stated that the Director and the Deputy Director of Finance were the only employees of the Office of the Public Trustee who had access to the salary budget data base for the purpose of preparing the salary budget. The Ministry informed us that in November 1992, a paper record of salary information was given to the Director of Finance for the purpose of inputting into a salary budget. This record also contained other personal information which was not essential for the salary budget. As a result, information such as the employee's birth date, and marital status was deleted from the salary budget data base. The Ministry agreed to delete the gender of the employee as this information was also not required for the preparation of the salary budget. The complainant was satisfied with these actions by the Ministry.

In our draft report, we indicated that, however, the Ministry remained of the position that the employee name was required by the two officers in order to avoid duplication of data while preparing the salary budget. It was our view that since each employee in the salary budget had been allocated a unique employee number, this number could have been used to prevent duplication of data.

In its response to our draft, the Ministry provided further clarification stating that the development and use of the salary budget is not purely financial. The Ministry advised that the salary budget is also used for planning, evaluative and allocative purposes. Planning decisions are based on such factors as expected retirement dates of employees and merit increases. Evaluative and allocative decisions include value for money considerations. It was the Ministry's position that for such sophisticated management decision making, it is necessary that the Director and Deputy Director of Finance have the ability to try out various scenarios that could include decisions relating to specific individuals.

The Ministry stated that other managers seek assistance from the Director or Deputy Director of Finance in their day to day management responsibilities. These managers already have specific employees' salary information. The Director or Deputy Director of Finance may not be able to provide any assistance if the names of employees were not disclosed to them in the salary budget data base.

Under the Act, an institution shall not disclose personal information in its custody or under its control except in the specific circumstances outlined in section 42. It was the Ministry's position that the disclosure of employees' names to the Director or Deputy Director of Finance was, in accordance with section 42(d) of the Act. Section 42(d) of the Act states:

An institution shall not disclose personal information in its custody or under its control except,

- (d) where disclosure is made to an officer or employee of the institution who needs the record in the performance of his or her duties and where disclosure is necessary and proper in the discharge of the institution's functions;

We have carefully considered the Ministry's representations. It is our view that the development and preparation of the salary budget for financial, evaluative, allocative and planning purposes is a function of the Ministry. It is also our view that the disclosure of employees' names was to officers who needed this personal information in the performance of their duties and that the disclosure was necessary and proper in the discharge of this function. Therefore, we agree with the Ministry that the disclosure of employees' names was in accordance with section 42(d) of the Act.

**Conclusion:** The disclosure of employees' names to the Director and Deputy Director of Finance for the development and preparation of the salary budget was in accordance with section 42 of Act.

## SUMMARY OF CONCLUSIONS

- The information contained in the salary budget data base was personal information as defined in section 2(1) of the Act.
- The disclosure of employees' names to the Director and Deputy Director of Finance for the development and preparation of the salary budget was in accordance with section 42 of the Act.

Original signed by: \_\_\_\_\_  
Susan Anthistle  
Compliance Review Officer

April 6, 1994 \_\_\_\_\_  
Date