

**ALBERTA
INFORMATION AND PRIVACY COMMISSIONER**

**Report on an Investigation Regarding Disclosure
of Personal Information**

February 19, 2003

Alberta Children's Services

Investigation #2655

I. Introduction

[para 1] On February 10, 2003, Alberta Children's Services (the "Public Body") launched an unrestricted publicly accessible website containing the detailed personal information of 90 children who are available for adoption.

[para 2] The Public Body did not submit a Privacy Impact Assessment to the Information and Privacy Commissioner (the "Commissioner") prior to disclosing the personal information on the website.

[para 3] The Commissioner initiated an investigation into whether the Public Body had authority to disclose the children's personal information under the *Freedom of Information and Protection of Privacy Act* (the "FOIP Act").

II. Issues

[para 4] The issues in this investigation are:

1. Did the Public Body have authority under section 40(1) of the FOIP Act to disclose the children's personal information?
2. Did the Public Body disclose personal information only to the extent necessary as required by section 40(4) of the FOIP Act?

III. Background Information

[para 5] The Public Body is the legal guardian for over 4700 children who need homes. Many of these children have special needs. The Public Body is responsible for finding suitable families that are willing to adopt and provide good homes for these

children. The Public Body has a stringent process in place for screening prospective adoptive parents.

[para 6] According to the Public Body, the number of children in need of homes far exceeds the number of prospective adoptive parents. The Public Body stated that last year only 216 of the over 4700 children in need of homes were adopted.

[para 7] The Public Body stated that in view of the gap between the number of children and the lack of prospective parents, it looked to measures that would increase public awareness.

[para 8] The Public Body determined that featuring the children on a website would increase public awareness of the need for homes and therefore the number of prospective adoptive families. The website is similar to those operated in 47 American states. According to the Public Body's research, adoption websites increased the number of successful adoptions by over 30%.

[para 9] The Public Body stated that the reason more detailed personal information was disclosed was to ensure that prospective parents have a realistic understanding of the special needs of the children at the earliest possible opportunity. According to the Public Body, an early understanding is crucial, as failure to realistically appreciate the special needs of the child can result in significant problems later.

[para 10] The Public Body stated that the information on the website is consistent with the type of information disclosed on the Wednesday's Child television feature and that appears in the Wednesday's Child's website.

IV. Discussion of the Issues

1. Did the Public Body have authority under section 40(1) of the FOIP Act to disclose the children's personal information?

[para 11] Section 40(1) of Part 2 of the FOIP Act identifies the circumstances under which a public body may disclose personal information. If a circumstance listed in section 40(1) is satisfied, then the Public Body has authority to disclose the personal information. The Public Body needs to establish its authority to disclose the personal information under only one of the provisions in section 40(1).

[para 12] The Public Body stated that it had authority to disclose the children's personal information under sections 40(1)(c), 40(1)(d) and 40(1)(f) of the FOIP Act and sections 85(2)(b) and 126(2)(l) of the *Child Welfare Act*.

[para 13] **Section 40(1)(c)** permits public bodies to disclose personal information for the purpose for which the information was collected or compiled. In this case, the Public Body collected the personal information for the purpose of finding homes for

children who are available for adoption. Therefore, as the information was disclosed for the purpose for which it was collected, section 40(1)(c) is satisfied.

[para 14] **Section 40(1)(d)** permits public bodies to disclose personal information if the person the information is about has identified the information and consented in the prescribed manner to the disclosure. In this case, the Public Body obtained the verbal consent of children 12 years of age and over before putting the child's personal information on the website.

[para 15] However, in order to be in compliance with section 40(1)(d), the Public Body must obtain the child's consent in the prescribed manner as outlined in section 6 of the *Regulation* to the FOIP Act. It should be noted however, that as the legal guardian, the Minister of Children's Services, or a delegate, has legal authority to consent on behalf of the children in her care, whether under or over age 12.

[para 16] If the Public Body wishes to comply with section 40(1)(d) of the FOIP Act, it should advise the Commissioner what steps it will take to ensure consent is in the prescribed form.

[para 17] **Section 40(1)(f)** permits public bodies to disclose personal information for any purpose in accordance with an enactment of Alberta or Canada that authorizes or requires the disclosure. The Public Body stated that section 85(2)(b) and section 126(2)(1) of the *Child Welfare Act* authorize the disclosure of the children's personal information.

[para 18] Section 85(2)(b) of the *Child Welfare Act* permits the disclosure of information for the publication of an advertisement authorized by the Minister or director for the purpose of finding homes for children in custody of the director who are available for adoption. The Public Body stated that the Minister of Children's Services authorized the publication for the purpose of finding homes for children who are available for adoption.

[para 19] As section 85(2)(b) of the *Child Welfare Act* authorizes the disclosure, section 40(1)(f) of the FOIP Act is satisfied. Although it is not necessary, the Public Body also cited section 126(2)(1) of the *Child Welfare Act* as an additional authority.

[para 20] Section 126(2)(1) of the *Child Welfare Act* permits the disclosure of any information to any person with the consent in writing of the Minister, the child or a guardian of the child. The Public Body stated that the Minister of Children's Services consented to the disclosure of the children's personal information. As section 126(2)(1) of the *Child Welfare Act* authorizes the disclosure, section 40(1)(f) is satisfied.

[para 21] The Public Body has satisfied section 40(1)(c) and 40(1)(f) of the FOIP Act. Therefore, the Public Body has the authority to disclose the personal information of the children in its care. As the Public Body has authority under section 40(1)(c), as well as section 40(1)(f), it is not required to obtain the consent of the children to disclose the

personal information. It is commendable that while the Public Body is not required to obtain consent, it has chosen to obtain the consent of children age 12 and over.

2. Did the Public Body disclose personal information only to the extent necessary as required by section 40(4) of the FOIP Act?

[para 22] Section 40(4) of the FOIP Act states that public bodies may disclose personal information only to the extent necessary to carry out the purposes described in section 40(1).

[para 23] Initially, the Public Body disclosed detailed personal information. This included detailed information on medical, physical, and behavioral conditions as well as sensitive information on traumatic experiences in the child's life. That disclosure was more than what was necessary to enable the Public Body to carry out its purpose of finding homes for children who are available for adoption.

[para 24] However, in response to concerns expressed by the Commissioner and others, the Public Body revised the descriptions so that highly sensitive personal information has been removed. For example, instead of detailing the medical needs of a child, the Public Body stated it will focus on the skills needed by the prospective adoptive parent. To ensure only the necessary information is disclosed, the Public Body stated its internal information and privacy office will review the descriptions before being posted on the website. The Public Body stated that it has to attempt to balance the amount of personal information needed to secure appropriate placements with the need to protect the privacy of the child.

[para 25] The revised descriptions contain only the personal information necessary to provide prospective adoptive parents with enough information about the child. Given the changes to the descriptions, the Public Body is in compliance with section 40(4) of the FOIP Act.

V. Summary of Findings

[para 26] The Public Body is authorized under section 40(1)(c) and section 40(1)(f) of the FOIP Act to disclose the children's personal information on the website, for the purpose of finding homes for children who are available for adoption.

[para 27] The initial descriptions of the children contained more personal information than was necessary. The revised descriptions are in compliance with section 40(4) of the FOIP Act.

VI. Additional Matters

[para 28] In response to concerns raised by the Commissioner, the Public Body will conduct an evaluation in three months to determine the effectiveness of the website in achieving the objective of finding adoptive homes. The Public Body will provide the

Commissioner with a report of the findings of its three-month review. The Public Body will continue to conduct evaluations at reasonable intervals and to address concerns that may develop.

[para 29] The Public Body also asked its social workers to confirm that every child was aware that he or she was available for adoption and is on the website. The Public Body stated that it will advise its social workers to ensure that, where appropriate, others involved in caring for the children are informed that a child will be on the website and be asked to inform the Public Body should any problem arise.

[para 30] As well, the Public Body reported that it will ask children under 12 years of age if they have any objection to their personal information being placed on the website. The Public Body gave assurance that if any child raised any objection, his or her personal information would not be placed on the website.

[para 31] The Public Body also gave assurance that it will continue to cooperate fully with the Commissioner's Office to address any matters affecting privacy that may arise.

VII. Recommendation

[para 32] I would like to thank the Public Body's representatives for their cooperation during this investigation and the prompt and forthright manner in which they addressed the concerns I raised.

[para 33] I have addressed the issues that are relevant to the FOIP Act and that are within the Commissioner's jurisdiction. Therefore, I recommend this file be closed.

Submitted by

Valerie Kupsch
Portfolio Officer