

**INVESTIGATION RELATING TO RELEASE OF
CONFIDENTIAL INFORMATION BY
HON. MIKE CARDINAL, MINISTER OF FAMILY AND SOCIAL SERVICES,
AND MS ALICE HANSON, MEMBER FOR EDMONTON-HIGHLANDS-BEVERLY**

NOVEMBER 7, 1994

ALLEGATION

This Office received a faxed letter from the Hon. Mike Cardinal, Minister of Family and Social Services, dated October 27, 1994, requesting that this Office review the matter of the release of confidential information by the Hon. Mike Cardinal, Minister of Family and Social Services, to Ms Alice Hanson, Member for Edmonton-Highlands-Beverly, and her further release to her caucus colleague, Terry Kirkland, Member for Leduc.

FACTS

Hon. Mike Cardinal provided a copy of the material he released to Alice Hanson on October 26, 1994. Mr. Cardinal indicated that he provided the information to the Opposition Member under section 91(1)(j) of the *Child Welfare Act*.

Mr. Cardinal met with us and provided us with the following information. Information on the specific Family and Social Services case was originally released to members of the media by the parents of the child involved. The first media reports were based on that information provided by the parents, excluding any identifying information. The Department then prepared information for the Minister. Following discussions with the media, the Minister noticed Ms Hanson and approached her. According to the Minister, he gave her the information prepared by the Department in an effort to assist her in her critic role in the House and to ensure that both sides of the House were operating from the same set of facts.

Ms Hanson agreed that the Minister approached her and provided her with the information. She did not request the information. She indicated the information was provided to her as she was seated in the Legislature Rotunda prior to the House commencing its afternoon sitting. Ms Hanson states that the Minister pointed out certain information contained in the two-page document but she claims that at that time, she was unaware that the document contained personal information as well.

Ms Hanson explains that she quickly scanned the information and then spoke with a Liberal Caucus researcher as the Member was scheduled to ask a question in that afternoon's Question Period. It was decided not to pursue the question that day as the document did provide some of the information Ms Hanson was seeking. On a more careful review of the material, Ms Hanson noted that the material contained private information on a child.

Ms Hanson was concerned about the release of private information and spoke with her Party Leader. It

was decided that the information should be returned to the Minister. The only discussion with Terry Kirkland, Member for Leduc, was a brief conversation to advise him that no question would be asked in the House the day Ms Hanson received the information from the Minister. Ms Hanson did not show or provide a copy of the information to Mr. Kirkland.

Ms Hanson returned the document to the Minister on October 27, 1994, noting that she believed the release of the information was a breach of the *Child Welfare Act*. She also sent a letter to Premier Ralph Klein, outlining the way she received the information and requesting that the Premier review the matter, and she sent a copy to the Speaker of the Legislative Assembly for information purposes.

The Minister also advised us that he received a note in the Legislature from Mr. Terry Kirkland, Member for Leduc, thanking the Minister for the information he provided to Ms Hanson. Mr. Kirkland was coordinating Liberal caucus participation in Question Period that day. Mr. Kirkland advises that he did in fact send a note to the Minister after he had been advised by Ms Hanson that she had some information from the Minister and would not be directing any questions to the Minister on that subject that day. Mr. Kirkland states that he was simply thanking the Minister for providing information but also stresses that he did not see the information at that time or at any later time.

Since the concerns were raised regarding the release of confidential information, Ms Hanson has not raised any questions on the matter in the House and, according to Ms Hanson, she has not shared the personal information with any other person within or outside her caucus. She did make a Member's Statement to the House on November 1, 1994, on this subject.

Ms Hanson believes the information was provided to her so that no questions on the issue would be raised in the House. Although she agrees that a co-operative effort to share information is to be encouraged, she does not believe that was the motivation in this instance.

Media representatives contacted by this Office all indicated that no personal information on this specific case was received by them from either the Hon. Mike Cardinal or Ms Hanson. Bob Scott from Family and Social Services met with us and confirmed that the department did not provide any media personnel with information from department files. Mr. Scott did pass on information the department had received from the media to other media representatives.

FINDINGS

An investigation was commenced under section 22(3) of the *Conflicts of Interest Act* which states that a Member may request that the Commissioner investigate any matter respecting an alleged breach of the Act by the Member. This matter was reviewed under section 4 of the *Conflicts of Interest Act* which states:

- 4** A Member breaches this Act if the Member uses or communicates information not available to the general public that was gained by the Member in the course of carrying out the Member's office or powers to further or seek to further a private interest of the Member, a person directly associated with the Member or the Member's minor child.

The issues for consideration, therefore, are:

- (1) Did the Member use or communicate information not available to the general public?
- (2) Was the information gained by the Member in the course of carrying out the Member's office or powers?
- (3) Was the use or communication of this information to further or seek to further the Member's private interests?

The information released by the Minister is based on child welfare file information and does contain personal information. The document does contain information not available to the general public. Additionally, it is clear that the information was obtained by the Minister in the course of carrying out his ministerial responsibilities.

Similarly, Ms Hanson received this information in the course of carrying out her responsibilities and she acknowledges that from her experience, she recognized that it was material which would not be available to the general public.

We therefore focussed on whether there was any indication that the Minister or Ms Hanson had used or communicated the information to further a private interest. Certainly there was no financial benefit to either Member in receiving or using the information to respond to a matter in the House or to the media.

We considered then whether a "private interest" could extend to a Member's wish to avoid or create media attention on a matter. We are unable to find any basis for extending the definition to that extent.

DECISION

We conclude that the Minister of Family and Social Services did use information not available to the general public and that information was gained by the Member in the course of carrying out his responsibilities. We further conclude that although the Member for Edmonton-Highlands-Beverly did receive information not available to the general public in the course of carrying out her MLA responsibilities, we have not received any evidence that she used or communicated that information other than to return it to its original source.

We are unable to find any evidence that the information was used or communicated to further a private interest of either Member. Therefore, it is our decision that there is no breach of the *Conflicts of Interest Act* in this case.

Whether the release of the information was appropriate under the *Child Welfare Act* is not a matter on which this Office can comment as it is not within the mandate of this Office to review questions under that legislation.

We would also point out that if the *Freedom of Information and Protection of Privacy Act* was in force, this matter might have more appropriately been referred to the Information and Privacy Commissioner for review.

The Minister also raised a question with us concerning how information could be shared among elected officials without the need for formal, written consents and, in particular, how information in sensitive

areas should be handled. Because the sharing of information can contribute to a more effective democratic process in the House, we would suggest that Members from both sides of the House discuss the way access to information should be handled for Members and what safeguards they believe are required to meet the privacy concerns of private citizens. We would encourage the development of processes which strengthen the sharing of information between Ministers and critics, when appropriate.

SANCTION

No sanction is recommended as no breach of the *Conflicts of Interest Act* has occurred.