



Office of the Information and
Privacy Commissioner of Alberta

Investigation Report F2017-IR-04

*Investigation into Alberta Gaming and Liquor Commission's collection of
personal information for Casino Advisor background checks*

December 21, 2017

Alberta Gaming and Liquor Commission

Investigations 001420

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Background

- [1] On August 10, 2015, the Office of the Information and Privacy Commissioner received a complaint from an individual about the extent of personal information required by the Alberta Gaming and Liquor Commission (Public Body) for that individual to continue acting as a Casino Advisor. The matter was not resolved at mediation and the individual requested an inquiry; however, the individual had not provided the Public Body with the requested information. Therefore, upon review of the matter, rather than focus on the particular circumstances of the individual's complaint, I decided to initiate my own investigation and more broadly review the Public Body's authority under Part 2 of the Act regarding its personal information practices for applications and renewals of Casino Advisor positions.
- [2] The Casino Advisor Application Forms under review in this investigation (which include the Personal Applicant Disclosure License/Registration Application, and in rare cases a Personal Expenditures Worksheet) are similar to, but updated from, those at issue in Investigation Report F2002-IR-008.¹ The Public Body explained there have been few changes to the impugned forms since the first time they were reviewed by my office, and it provided details regarding the changes that had been made. The Application Forms are lengthy and require a great deal of extremely detailed and sensitive personal information about an applicant as well as individuals closely associated with that applicant. An applicant must provide, among other things, a complete disclosure of their financial situation, employment history, family relationships, and criminal/litigation/disciplinary history. Depending on the Public Body's initial review of the Application Forms, it may require some applicants to provide additional detailed personal information.
- [3] On February 10, 2017, I notified the Public Body I was conducting an investigation under section 53(1)(a) of the *Freedom of Information and Protection of Privacy Act* (FOIP Act). On July 21, 2017, my office issued a formal Notice of Investigation, and by September 1, 2017 the Public Body had provided its submission.

Issue

- [4] Is the Public Body in compliance with Part 2 of the FOIP Act regarding the personal information collected from applicants for Casino Advisor positions in its Casino Advisor Application Forms?

Statutory Framework and Analysis

- [5] The Public Body is responsible for the gaming industry in Alberta and is governed by the *Gaming and Liquor Act* and associated *Gaming and Liquor Regulation* (Regulation). The objectives of the Public Body are set out in section 3, and the responsibilities of the Board are set out in section 12 of the *Gaming and Liquor Act*.

¹ Investigation Report F2002-IR-008 is available at www.oipca.ab.ca/media/127659/F2002-008IR.pdf.

[6] The Public Body's authority to collect personal information has previously been reviewed by my office, and resulted in Investigation Report F2002-IR-008. In that report, the investigator found the Public Body was authorized to collect the personal information at issue. In particular, the investigator found that sections 9 and 9.1 of the *Gaming and Liquor Regulation* authorized the collection, and therefore the collection was in accordance with section 33(a) of the Act. The collection of personal information in this matter, and the statutory framework in place is essentially the same as the last time my office reviewed these concerns regarding the Public Body.

[7] I further note that from the earliest days of this Office, public bodies have been given considerable latitude to decide what personal information is necessary for them to collect. Order 98-002² was considered in my office's previous investigation of the Public Body, and the same principle remains in force today. In Order 98-002, former Commissioner Frank Work stated at paragraph 152:

I must give the Public Body considerable latitude in deciding that the collection of personal information is necessary, relative to the disability and compensation. Provided this determination is not patently unreasonable, it is not likely I would interfere. However, I cannot defer entirely to the Public Body because the Act overrides the *Workers' Compensation Act*, and the Act compels me to look at the basis on which a public body collects personal information.

[8] The Public Body relies on sections 33(a) and (c) of the FOIP Act for its authority to collect personal information:

33 No personal information may be collected by or for a public body unless

- (a) the collection of that information is expressly authorized by an enactment of Alberta or Canada...
- (c) that information relates directly to and is necessary for an operating program or activity of the public body.

[9] The relevant provisions of the *Gaming and Liquor Regulation* state:

9 In this Division and in section 28, "background check" means an inquiry or investigation, including a records check, conducted by the Commission to enable the Commission to determine the eligibility of an applicant, licensee, or a registrant to hold a licence or be registered or to continue to hold a licence or be registered, and includes but is not limited to an inquiry or investigation relating to the honesty and integrity, financial history and competence of any of the following:

- (a) the applicant;
- (b) the licensee;
- (c) the registrant;
- (d) the employees and associates of the applicant, the licensee or the registrant;
- (e) any person with connections to the applicant, the licensee or the registrant.

9.1 The Commission may conduct any background check that it considers necessary or appropriate.

² Order 98-002 is available at www.oipc.ab.ca/media/124330/98-002Order.pdf.

- [10] Further, section 2(1) of the Regulation states:
- 2(1) An applicant for a licence or registration must submit to the Commission
- (a) an application on a form established by the Commission,
(b) any information, affidavits and documents required by the Commission or board that relate to the application,
- [11] In addition to collecting personal information directly from a Casino Advisor applicant, the Public Body also indirectly collects personal information about individuals associated with the applicant. Sections 1(7)(a), (b) and (c) of the Regulation define who is considered an “associate” of an applicant, and as quoted above, section 9(e) of the Regulation authorizes the Public Body to investigate “any person with connections to the applicant, the licensee or the registrant.”
- [12] Accordingly, these sections provide the Public Body with broad authority to conduct background checks.
- [13] Of course, in order to comply with section 9.1 of the Regulation, the Public Body must consider the background check to be necessary or appropriate. Further, once a public body has collected personal information, its use and disclosure of that personal information is limited under sections 39(4) and 40(4) of the FOIP Act only to the extent necessary to enable the public body to carry out its purpose in a reasonable manner.
- [14] The Public Body provided a lengthy and detailed submission outlining its role, and the applicable statutory framework. It explained that the Province of Alberta has adopted a charitable gaming model, which means that gaming activities (such as casinos, bingos, raffles, and pull tickets) may occur only when an eligible charity or religious group receives a license from the Public Body to conduct a gaming activity. Once a charity receives a license from the Public Body, it must independently contract with a Casino Advisor to assist it by providing oversight and guidance to the charity conducting the gaming event. A Casino Advisor’s duties include ensuring the charity adheres to applicable rules, training and advising volunteers in all required processes including chip sales, cash and chip counts, security, and verifying that all transactions are complete and accounted for and entering transactional data into the Public Body’s system. Ultimately a Casino Advisor ensures financial records are balanced. A Casino Advisor must report any discrepancies and shortages to the Public Body.
- [15] In addition to licensing charities to conduct gaming events, the Public Body is also responsible for registering Casino Advisors. The registration process involves collecting very detailed personal information from an applicant (and individuals closely associated with an applicant) and conducting a thorough background check. As part of the investigation, the Public Body provided specific explanations as to why it collected various data points in its Casino Advisor forms. It also provided information about the steps it takes to safeguard the personal information it collects.
- [16] The Public Body provided general information about the Casino Advisor role. It explained that Casino Advisors work in a position of trust and integrity. Given the nature of the gaming industry, opportunities exist for information to be misrepresented and for money to be mishandled or stolen. Areas in which Casino Advisors work are particularly vulnerable to

criminal activity because they handle large amounts of cash and have the ability to circumvent controls. As such, the Public Body must ensure that individuals who are registered as Casino Advisors are reviewed thoroughly and regularly to ensure their integrity and honesty. The Public Body states:

The gaming industry is highly susceptible to being a target for, or infiltrated by, organized crime and other criminal elements... It is necessary for the AGLC to ensure those granted a license or registration to participate in the gaming industry have the financial management ability and competence to operate successfully, with honesty and integrity, in a complex multi-billion dollar industry to maintain the integrity of the gaming industry and trust of Albertans.

The financial history of an applicant or registered worker and the financial history of associated persons is critical in determining suitability. It is vital that the AGLC review all relevant information to determine financial management abilities, legal acquisition of property, associations with persons who may participate in illegal activity, and the absence of motivational factors that might compel an individual to conduct illegal activity within the Cash Cage and Count room.

- [17] The Public Body also provided several examples of particular situations where criminal activity had been uncovered as a result of its extensive collection of personal information and thorough background checks of Casino Advisor applicants and individuals renewing their Casino Advisor licences.

Conclusion

- [18] The Legislature has entrusted the Public Body with governing the gaming industry in Alberta, which includes determining which individuals may be registered as Casino Advisors. Sections 9 and 9.1 of the Regulation give the Public Body broad authority to conduct background checks, which necessitates the collection of personal information from Casino Advisor applicants and individuals associated with them. As such, I am satisfied that the Public Body is collecting personal information in its Casino Advisor Application Forms in accordance with sections 33(a) and (c) of the FOIP Act.
- [19] Based on the considerable latitude with which public bodies are able to decide what personal information is necessary for them to collect, and in consideration of the Public Body's submissions which have been briefly summarized above, and my office's previous investigation of substantially the same matter, I am satisfied that at this time, the Public Body is compliant with Part 2 of the FOIP Act regarding the personal information collected for Casino Advisor positions in its Casino Advisor Application Forms.

Jill Clayton
Information and Privacy Commissioner