



PRIVACY LAW PROSECUTIONS

An employee of the City of Prince George made a complaint about the disclosure of some of her personal information by a human resources advisor in the City of Prince George's human resources department. The nature of the alleged disclosure has not been revealed. The human resources advisor has been charged in Provincial Criminal Court with breaching the *Freedom of Information and Protection of Privacy Act*.

The employee in the human resources department is charged with a breach of section 30.4 of the Act, which provides that:

An employee, officer or director of a public body or an employee or associate of a service provider who has access, whether authorized or unauthorized, to personal information in the custody or control of a public body, must not disclose that information except as authorized under this Act.

An offence under section 30.4 is punishable by a fine up to \$2000 for an individual, or up to \$500,000 for a corporation.

She has already made an initial appearance in provincial court on the charge, but there has been no trial yet.

The Crown is also proceeding in an unrelated case against Prince George City Councillor Brian Skakun. He has been charged under the *Freedom of Information and Protection of Privacy Act* with the unauthorized disclosure of personal information. According to media reports, a confidential document was released to the CBC. The document was part of a legal

opinion dealing with the conduct of a senior RCMP officer, and the legal opinion had been provided to city council at an in-camera meeting. His trial on that charge is set to start on October 26, 2010.

In British Columbia, the *Personal Information Protection Act* sets out privacy obligations for private organizations. The *Freedom of Information and Protection of Privacy Act* generally applies to public bodies and regulatory bodies.

Until these two charges were laid, privacy issues have usually been handled by the Privacy Commissioner's office. The normal consequence for a violation of the privacy legislation has been a declaration that the legislation had been breached and an order requiring a person or

organization to provide information, implement new procedures for protection of private information, or take certain steps to bring the organization's policies and procedures into compliance with the legislation. We are not aware of any previous cases in which individuals have been charged with an offence for violation of privacy legislation in British Columbia.

These two charges against individuals should be taken as a warning that a breach of the privacy legislation can result in serious charges against

individuals or corporations. These cases indicate that the Crown may pursue charges against those who violate privacy legislation.

We are following these cases to determine how the courts will deal with prosecutions against individuals under the British Columbia privacy legislation.

The content of this Newsletter is intended to provide information on Bull, Housser & Tupper LLP, our lawyers and recent developments in the law. The information contained herein is summary in nature, and does not constitute legal advice. For additional details or advice concerning specific situations please contact any member of our Labour & Employment Group.

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