

Issues of Privacy - Québec

Police Ethics Commissionner

Police Ethics Committee

Civil Code of Québec – section 3

3. Every person is the holder of personality rights, such as the right to life, the right to the inviolability and integrity of his person, and the right to the respect of his name, reputation and privacy.

These rights are inalienable.

Québec's Charter of human rights and freedoms

- 5.** Every person has a right to respect for his private life.

Police Act (Québec)

- 133 Before taking office, the Commissioner shall take an oath...
- OATH OF DISCRETION (schedule B)

I swear that I will not reveal or make known, without being duly authorized, anything whatsoever of which I have learned in the performance of my duties.

Police Act (Québec)

- **139.** ... the Commissioner, the deputy commissioner, the members of their staff, the investigators and the police ethics conciliators may not be compelled by any court to reveal any information disclosed to them in the performance of their duties in respect of a complaint, or to produce before a court any document drafted or obtained in the performance of their duties. However, the exemption does not apply to investigations before the ethics committee.

178. Upon completion of the investigation, the Commissioner shall examine the investigation report. He may

1) dismiss the complaint, if he is of the opinion that it has no foundation in law or is frivolous or vexatious, or that the evidence is insufficient;

2) cite the police officer to appear before the Comité de déontologie policière if he is of the opinion that the evidence warrants such action;

3) refer the case to the Director of Criminal and Penal Prosecutions.

...

179. The Commissioner shall forthwith notify the complainant, the police officer and the director of the police force to which he belongs, of his decision.

Dismissal of complaint.

If he dismisses the complaint, the Commissioner shall also transmit to them the reasons therefor and a summary of the investigation report. He shall, in addition, inform the complainant of his right to submit the decision to review by the Comité de déontologie policière.

The administrative tribunal : The Committee

- The Commissioner = the «Prosecutor»
- The police officer – to present a full and complete defence (disclosure of evidence)
- 229 (1) Every hearing shall be public

Section 229 (2)

... the committee may... order that a hearing be held *in camera* or ban the publication or release of any information or document it indicates, in the interest of morality or public order, in particular to protect a person's privacy or reputation or the confidentiality of a police investigation procedure, a source of information or a police operation procedure.

- Commissioner = administrative process
 - = no publicity
 - = never published
- Committee : public hearing
 - decisions are posted on web
 - often in the news
 - transparency = public interest

Commission d'accès à l'information

- Investigations are made by Commissioner's (PEC's) investigators (8 of them)
- **174.** The Commissioner and any person acting as an investigator for the purposes of this division, may, after giving prior notice to the director of the police force concerned, enter any police station or premises and examine any books, reports, documents or other effects relating to the complaint under investigation.

- Access to information
- In Québec : cases are about complainants trying to get police reports from Commissioner
- Names in Committee decisions – not really an issue...yet
- Posting of administrative decisions on web is widespread in Québec...