



**Information and Privacy
Commissioner/Ontario**

**Commissaire à l'information
et à la protection de la vie privée/Ontario**

ORDER M-45

Appeal M-910457

Walkerton Board of Commissioners of Police



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ORDER

On October 1, 1992, the undersigned was appointed Inquiry Officer and received a delegation of the power and duty to conduct inquiries and make orders under the Freedom of Information and Protection of Privacy Act and the Municipal Freedom of Information and Protection of Privacy Act (the Act).

The Walkerton Board of Commissioners of Police (the Police) received a request under the Act for information related to an investigation based on information which the requester had provided to the Police. The requester subsequently clarified that the information he was seeking access to related to a perjury charge against a certain individual. The institution responded that no records existed which responded to the request. The requester appealed the decision of the Police, claiming that responsive records did exist.

During the course of mediation, the procedures employed by the Police and the steps taken to locate the records were explained to the appellant. The appellant was not satisfied with the explanation and, accordingly, the appeal proceeded to an inquiry. Notice that an inquiry was being conducted to review the decision of the Police was sent to the Police and the appellant. Each notice outlined the issues in the appeal and invited representations. Written representations were received from the appellant and the Police.

The sole issue to be determined in this appeal is whether the search for records responsive to the request was reasonable.

The appellant insists that he spoke to a representative of the Walkerton Police Department concerning the laying of a charge of perjury against another individual.

The Police maintain that it has no record whatsoever of any such discussion between the appellant and any of its employees.

During mediation and in its representations, the Police outlined the procedure concerning complaints, written occurrences and phone calls; outlined the steps taken by the Deputy Chief of Police to locate the record; and provided a copy of the by-law which governs the retention of Police records. In addition, the Chief of Police questioned each officer about the appellant's complaint. The Chief of Police has sworn an affidavit verifying that all areas in the department which would likely contain the requested records had been searched, that no additional records were found, and that he is satisfied that the complaint was not made to any of his officers.

Taking into account all of the considerations which I have outlined, I am satisfied that the search conducted by the Police was reasonable.

Original signed by: _____ October 6, 1992
Holly Big Canoe
Inquiry Officer