



**Information and Privacy
Commissioner/Ontario**
**Commissaire à l'information
et à la protection de la vie privée/Ontario**

ORDER M-60

Appeal M-9200132

York Regional 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 Provincial Freedom of Information and Protection of Privacy Act and the Municipal Freedom of Information and Protection of Privacy Act.

The York Regional Police (the Police) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for records relating to a meeting that was held at the requester's residence in June of 1989 between the requester, two named police officers and other individuals.

In its decision letter, the Police advised the requester that a record of the meeting did not exist in its custody or control.

The requester appealed the Police's decision.

In accordance with the usual practice, the appeal was assigned to an Appeals Officer who contacted the appellant and the Police. The appellant indicated to the Appeals Officer that it was her recollection that the police officers at the meeting either took notes or used a tape recorder to record the meeting. The Police indicated that the two police officers did attend the meeting; however, at the time of the request, no record of the meeting could be found.

Mediation of the appeal was not successful as both parties maintained their positions. Notice that an inquiry was being conducted to review the Police's decision was sent to the appellant and the Police. Written representations were received from both parties.

The sole issue in this appeal is whether the Police's search for the requested records was reasonable in the circumstances.

In its representations, the Police outlines the steps taken by its officials to locate any records in its custody or control that would be responsive to the request. The Police submits: At the same time the organization was responding to this particular request, it was also responding to a request from [the requester] that dealt with every document and note that the York Regional Police possess that had anything to do with [the requester's] family from 1975 to 1992 inclusive. While it took more time to respond to this request, which incidentally would have included any official reports of the June 1989 meeting, it eventually was answered and a number of documents were made available to [the requester]. Locating records responsive to that request involved searching the main database of the organization and retrieving all relevant records from old manual files. There were no documents found that had been authored by [the named police officers] in relation to the meeting. Considerable effort has been expended by the organization in order to respond to [the requester's] requests. The officers who attended [the requester's] residence recall having been there but claim not to have created any records as a result of being there. Affidavits from these officers are being produced that indicate no records exist.

I have received affidavits from the two police officers, the appellant, her husband, and one of the individuals who was present at the meeting.

The appellant and her husband state that one of the police officers at the meeting " placed a tape recorder on the table, around which we all sat, before the conversation started. A red light was on, indicating that the device was under power and it remained so for the entire meeting. Also, notes were taken by [one of the named officers]". The individual at the meeting states that she believes there was a tape recorder at the meeting and a red light was on.

The named police officers indicate that they attended a meeting at the requester's residence during the summer of 1989 and did have a tape recorder available; however, they deny taking notes or using a tape recorder to record the meeting.

As indicated above, the issue to be decided in this appeal is whether the Police have conducted a reasonable search to locate any records responsive to the request, and not whether a record of the meeting was created by the Police. Having carefully reviewed the representations of the parties and the affidavit evidence submitted to me, I am satisfied that the Police have taken all reasonable steps to locate any records that would specifically respond to the appellant's request, and that the search conducted by the Police was reasonable in the circumstances of this appeal.

Original signed by: _____
Asfaw Seife
Inquiry Officer

_____ November 6, 1992