



Information and Privacy  
Commissioner/Ontario

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

# **ORDER M-131**

## **Appeal M-9200119**

### **Ottawa Board of Commissioners of Police**



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## ORDER

The Ottawa Board of Commissioners of Police (the Police) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for the following information:

Investigation and occurrence reports, any written communications, complaints, briefing notes and memos concerning an incident at the Chateau Laurier Hotel involving [named police officer]. Any indication why Insp. [name] would do the investigation involving the allegations of a hotel clerk, rather than the Ontario Police Commission.

All witness statements, occurrence reports, memos and written communications concerning the allegations of the hotel clerk.

Hotel records concerning the room the [police officer] was allegedly using.

Any internal investigation reports or written communications indicating why [named officers] would have used the name of two officers from internal affairs (now professional standards) branch, rather than their own, during investigation into allegations against [named police officer].

The requester stipulated that the request should span a two year period. It was to commence one year prior to the date that a specified police officer was charged with unprofessional conduct and end one year after that date. The Police subsequently determined that the charge referred to was laid in 1986. The Police responded to the request by indicating that the hotel records should be requested from the hotel, and that access to the rest of the information could not be granted because the responsive records do not exist.

The requester appealed the decision of the Police because of his belief that records responsive to the request should exist.

The appellant supplied further information pertaining to the incident to the Appeals Officer who, in turn, conveyed this material to the Police. After a further search, the Police again stated that no records existed. Mediation of the appeal was not successful, and notice that an inquiry was being conducted was sent to the appellant and to the Police. Representations were received from both parties.

The sole issue in this appeal is whether the Police conducted a reasonable search for the records sought by the appellant.

In his representations, the appellant raised a number of concerns regarding the existence of the records. He stated that the internal investigation of the named police officer was undertaken contrary to ordinary procedures and the provisions of the Police Act. On this basis, the appellant expressed surprise that records on the investigation were not available.

The appellant also indicated that he had been informed by many officers that documentation on the incident had been created, and that hotel records were confiscated and not returned. He also questioned why microfilm reports would not exist, and stated that, if records were destroyed, more information should be available on exactly which files were destroyed.

In response to the Notice of Inquiry, the Police have provided representations which include several affidavits sworn to by various police officers and other individuals. In their representations, the Police outline the specific sites where the records might be located and the searches which were conducted. Two of the affidavits supplied indicate that records which may have been responsive to the request were deposited in the Internal Affairs Section (now known as the Professional Standards Section) in 1986. The representations of the Police conclude that, although it is possible that responsive records may at one time have been created, such records no longer exist.

Along with their representations and affidavits, the Police submitted additional evidence regarding their file purging policy and their records retention and destruction schedules, specific to the Professional Standards Section. The Police also provided a copy of a resolution passed by the Ottawa Police Services Board in 1991 amending the previous Records Retention Schedule. These additional materials indicate that current retention periods for internal investigations in the Professional Standards Section runs from two years for minor infractions, to five years for serious infractions. Finally, the Police included copies of authorizations for the destruction of records in the Professional Standards Section, covering public complaints and internal investigations records up to 1989.

I have carefully reviewed the representations of both parties, as well as the additional evidence supplied to me by the Police. Based on the information provided, I am satisfied that the Police have taken all reasonable steps to locate records responsive to the appellant's request, and I find that the search was reasonable in the circumstances of this appeal.

Original signed by: \_\_\_\_\_  
Irwin Glasberg  
Assistant Commissioner

\_\_\_\_\_ May 18, 1993