



Information and Privacy
Commissioner/Ontario

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

ORDER M-193

Appeal M-9300201

Waterloo Regional Police Services Board



80 Bloor Street West,
Suite 1700,
Toronto, Ontario
M5S 2V1

80, rue Bloor ouest
Bureau 1700
Toronto (Ontario)
M5S 2V1

416-326-3333
1-800-387-0073
Fax/Télééc: 416-325-9195
TTY: 416-325-7539
<http://www.ipc.on.ca>

ORDER

BACKGROUND:

On September 20, 1993, 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 Waterloo Regional Police Services Board (the Police) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) in which the requester asked for "... all information pertaining to myself... for the time period between March 7, 1991 and the present". The Police responded to the request by providing the requester with portions of nine pages of records. In its decision letter, the Police indicated to the requester that the information contained in the undisclosed portions of the records was either not responsive to the request or exempt from disclosure pursuant to the exemptions provided by sections 8, 14 and 38 of the Act.

The requester was unsatisfied with the response and appealed the decision. In the course of mediation, the appellant advised the Appeals Officer that he was not appealing the decision to deny access to those portions of the record which were not disclosed. Rather, he was appealing the decision that the records in the custody or control of the Police which were described in the decision letter were the only records responsive to the request.

Mediation was not successful, and notice that an inquiry was being conducted to review the decision of the Police was sent to the appellant and the Police. Representations were received from both parties. In its representations, the Police indicate that they had located additional records similar to the ones which had been referred to in their original decision letter. The Appeals Officer contacted the appellant and confirmed that the appellant was not interested in these records. The appellant's sole concern was that additional records concerning other incidents and/or investigations might exist.

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

The appellant has provided representations which identify the reasons why he believes that additional records should exist.

The Police have also provided representations which include a sworn affidavit from the Records Supervisor of the Records Branch of the Police. This affidavit summarizes the types of records which are maintained by the Records Branch, the searches conducted to attempt to identify any additional records responsive to the request, and the results of those searches. Specifically, the Police have concluded that there does not exist any local criminal file, national criminal file or C.P.I.C. file, warrants, probation orders or observation reports respecting the appellant.

Where a requester provides sufficient detail about the records which he or she is seeking and an institution indicates that additional records do not exist, it is my responsibility to ensure that the institution has made a

reasonable search to identify the records which are responsive to the request. While the Act does not require that an institution prove to the degree of absolute certainty that such records do not exist, the search which the institution undertakes must be conducted by knowledgeable staff in locations where the records in question might reasonably be found.

Having carefully reviewed the representations and the affidavit provided to me, I am satisfied that the Police have taken all reasonable steps to locate any additional records responsive to the appellant's request, and that the search conducted by the Police was reasonable in the circumstances of this appeal.

Original signed by: _____
Donald Hale
Inquiry Officer

_____ September 27, 1993