



**Information and Privacy  
Commissioner/Ontario**

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

# **ORDER M-161**

## **Appeal M-9200404**

### **Durham Region Board of Commissioners of Police**



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# ORDER

The Durham Region Board of Commissioners of Police (the Police) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for all records related to the requester's conversations with two staff members regarding a complaint made by the requester, and all records giving rise to an officer issuing a ticket to a car parked in the requester's driveway on October 1, 1992. The Police gave the requester access to the requester's personal information contained in the record, but denied access to the personal information of other individuals, and to other information, on the basis of the exemptions in sections 8(1)(1), 8(2)(a), 14(1)(f) and 14(3)(b) of the Act. The requester appealed this decision.

During mediation the Police granted access to all of the records it claimed to have in its possession, other than the personal information of other individuals. The appellant accepted these records, and did not pursue her appeal with respect to the personal information of other individuals.

Shortly after the request was made, the Police provided the appellant with a cassette tape, copied from the master logger tape, of the appellant's conversations with Police staff, and of the dispatcher's conversations with an officer relating to the issuance of the parking ticket. The appellant was of the opinion that certain sounds on the tape indicated that there were gaps in the material provided. The Police subsequently provided her with a cassette tape containing additional material and stated that it had no other taped material relating to the request in its possession.

Despite receiving additional records from the Police, the appellant remained of the view that the Police had failed to give access to all records giving rise to the issuance of the parking ticket, and asked to proceed to inquiry with respect to the existence or non-existence of additional responsive records.

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.

The sole issue is whether the Police search for responsive records was reasonable in the circumstances.

The appellant states that she believes that the search conducted by the Police was reasonable, and located all records responsive to her request. The appellant maintains that the Police have refused to disclose parts of the records, as disclosure would prejudice its position in a harassment complaint which she has filed against it. Specifically, the appellant submits that portions of the tape which contain information responsive to her request have been deleted.

In its representations, the Police describe the steps taken to locate records responsive to the appellant's request. Five individuals responsible for the searches submitted sworn affidavits describing the searches they conducted, which included computer and manual searches of records, and audio searches of the master logger tapes for the relevant dates.

With respect to the cassette tapes, the Police state that the master logger tape records no longer exist, having been erased after two months in accordance with its records retention by-law, a copy of which has been provided to this office. Material responsive to the request had been copied and provided to the requester shortly after the request was made. The Police submit that it was only later, after the master logger tapes had been erased, that it became aware of the existence of a tape transcription, made for purposes of the requester's harassment complaint, that contained some additional material responsive to the request. This additional material was provided to the appellant.

The Police submit that the gaps that exist in the tape relating to the issuance of the parking ticket arise from the fact that the dispatcher is receiving and transmitting a succession of calls dealing with different matters. Taped conversations that were not responsive to the request were therefore deleted. I have reviewed the cassette tapes, and I am satisfied that the explanation of the Police is reasonable.

The Police take the position that, as a result of their searches, they are satisfied that no additional records exist that are responsive to the request.

In my opinion, the searches conducted by the Police were reasonable. I am satisfied that, in the circumstances, the Police have taken all reasonable steps to locate all records that might be responsive to the request.

Original signed by: \_\_\_\_\_  
Holly Big Canoe  
Inquiry Officer

July 7, 1993