



**Information and Privacy  
Commissioner/Ontario**

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

# **ORDER M-323**

**Appeal M-9400077**

**Regional Municipality of York Police Services Board**



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# ORDER

The Regional Municipality of York Police Services Board (the Police) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to all records relating to a meeting concerning the requester's family, held sometime in 1989 or 1990 at a named location and attended by certain named individuals including two police officers.

The Police denied access on the grounds that the records do not exist. The requester appealed the decision of the Police, claiming that records should exist.

During mediation, the appellant identified another police officer who may have attended the meeting. Further mediation of this appeal was not successful and notice that an inquiry was being conducted to review the decision of the Police was sent to the Police and the appellant. Representations were received from both parties.

The sole issue in this appeal is whether the Police have conducted a reasonable search for records which are responsive to the appellant's request.

The Act does not require the Police to prove with absolute certainty that the requested records do not exist. However, in my view, in order to properly discharge its obligations under the Act, the Police must provide me with sufficient evidence which shows that it has made a **reasonable** effort to identify and locate records responsive to the request (Order M-275).

In her representations, the appellant submits that it is highly improbable that no records should exist. The appellant also states that if, in fact, records did exist but have since been destroyed, the Police should be able to attest to this by way of an affidavit.

In their representations, the Police list the steps taken to contact the various police officers named and to locate responsive records. The representations of the Police include the sworn affidavits of two police officers and the Freedom of Information Co-ordinator. In his affidavit, one of the named police officers states that he did attend such a meeting during 1989 or 1990, that the nature of his assignment during that period required him to record his notes on the Staff Daily Duty Sheet which was handed in to his supervisor, and that the Staff Daily Duty Sheets are destroyed at the end of each year. A copy of the Police Records Retention Schedule accompanying the representations, confirms that Staff Daily Duty Sheets are required to be destroyed after one year.

The second affidavit is sworn by the police officer who, at the time of the alleged meeting, was in charge of the district in which the appellant resides. The officer states that he has no record of ever attending such a meeting.

In the third affidavit, the Freedom of Information Co-ordinator states that he personally contacted one of the named individuals (now a former police commissioner), and the police officer later identified by the appellant, both of whom confirmed to him that they have no recollection of ever attending such a meeting and have no records.

I have carefully reviewed the representations of the parties, and the affidavits of the Police, and I am satisfied that the Police have taken all reasonable steps to locate any records responsive to the appellant's request.

**ORDER:**

I uphold the decision of the Police.

Original signed by: \_\_\_\_\_  
Mumtaz Jiwan  
Inquiry Officer

\_\_\_\_\_ May 26, 1994