



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

ORDER M-543

Appeal M-9500054

Town of Amherstburg Police Services Board



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NATURE OF THE APPEAL:

This is an appeal under the Municipal Freedom of Information and Protection of Privacy Act (the Act). The Town of Amherstburg Police Services Board (the Police) received a request for access to copies of two reports referred to in minutes of Board meetings which were to be made by the Chief of Police at future Police Services Board meetings. The Police responded to the request by advising the requester that records responsive to his request do not exist. The requester appealed that decision.

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

A Notice of Inquiry was sent to the Police and the appellant. Representations were received from the Police only.

DISCUSSION:

REASONABLENESS OF SEARCH

Where a requester provides sufficient details about the records which he is seeking and the Police indicate that such records do not exist, it is my responsibility to ensure that the Police have made a reasonable search to identify any records which are responsive to the 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 to show that it has made a **reasonable** effort to identify and locate records responsive to the request.

The Police describe the nature and extent of the searches undertaken for responsive records in the files of the Police Services Board itself and those of the Chief of Police. Included in its representations were three affidavits sworn by the Police Services Board Secretary, the Freedom of Information and Privacy Coordinator and the Chief of Police in which the scope of their searches for responsive records are described in detail.

The affidavit of the Chief of Police indicates that one of the reports requested was delivered orally to the Police Services Board and did not include any written supporting documents. The other requested report has never been made to the Police Services Board.

Based on the evidence provided by the Police in support of its position that no responsive records exist, and in the absence of any evidence to the contrary, I am satisfied that the efforts made by the Police to locate records responsive to the request were reasonable in the circumstances.

ORDER:

I uphold the decision of the Police.

Original signed by: _____
Donald Hale
Inquiry Officer

June 6, 1995