



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

# **ORDER M-624**

**Appeal M\_9500334**

**Metropolitan Toronto 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/Télé: 416-325-9195  
TTY: 416-325-7539  
<http://www.ipc.on.ca>

## **NATURE OF THE APPEAL:**

This is an appeal under the Municipal Freedom of Information and Protection of Privacy Act (the Act). The Metropolitan Toronto Police Services Board (the Police) received a request for access to a copy of a tape recording of an interview with the requester. The requester indicated that the interview was conducted by two named police officers in the summer of 1986. The requester also asked for any other records related to this interview. In addition to the above, the requester asked for the names of any individuals who had requested information about him since June, 1994.

The Police responded to the requester and indicated that access could not be provided to a tape of the interview because the record does not exist. Further, the Police advised that it had not received any requests for the requester's personal information other than those submitted by the requester.

In appealing the decision that no records exist pertaining to the tape recorded interview, the requester (now the appellant) states that he observed the police officers taping his interview, and a copy of this tape should, therefore, exist.

A Notice of Inquiry was provided to the Police and the appellant. Representations were received from both parties. The sole issue to be determined in this appeal is whether the search for responsive records conducted by the Police was reasonable in the circumstances of this appeal.

## **DISCUSSION:**

### **REASONABLENESS OF SEARCH**

Where a requester provides sufficient details about the records which he or she is seeking and the Police indicate that additional records do not exist, it is my responsibility to ensure that the Police have made a reasonable search to identify responsive records. While the Act does not require that the Police prove to the degree of absolute certainty that such records do not exist, the search which the Police undertake must be conducted by knowledgeable staff in locations where the records in question might reasonably be located.

In his representations, the appellant has provided extensive background information pertaining to an incident in which he was involved, his experience with the Police, and his views regarding their actions towards him. He also states that when the two police officers interviewed him, they recorded the interview on a reel-to-reel tape recorder. He provides a detailed description of the type of machine used and the manner in which the interview was conducted. He states further that, according to his research into this matter, this type of tape recorder was used by the Police in 1986.

The Police indicate that following a search for responsive records, the detective in charge of the investigation to which the interview of the appellant is connected advised that no interview tape of the appellant exists. The Police submit that it is unlikely that a taped version of the interview

ever existed as a notation on the statement given by the appellant indicates that it was written by him. Moreover, the written version of the interview reflects a narrative style of recording of information rather than a transcription of the conversation, which would be the case had a tape recording been made.

The Police indicate further that as a result of discussions with the Appeals Officer during mediation, in which they were advised that the appellant observed the recording of his interview, they contacted the two police officers named in the request. Although one of the officers could not recollect whether or not a tape recorder was present at the interview, the second officer indicated that a reel-to-reel recorder was never in use during the investigation.

I have carefully considered the representations submitted by both parties. As I indicated above, in appeals relating to whether a reasonable search was conducted, the Act **does not require that the Police prove to the degree of absolute certainty that such records do not exist**. Rather, the Act requires institutions to demonstrate that the efforts they made to locate responsive records were reasonable in the circumstances.

Despite the extensive and detailed recollection of the appellant regarding his interview, I am satisfied that, in the circumstances of this case, the efforts made by the Police to locate the requested records were reasonable.

**ORDER:**

I uphold the decision of the Police.

Original signed by: \_\_\_\_\_  
Laurel Cropley  
Inquiry Officer

\_\_\_\_\_ October 20, 1995