



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

# ORDER M-766

Appeal M\_9500728

Municipality of Metropolitan Toronto



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## NATURE OF THE APPEAL:

The Municipality of Metropolitan Toronto (the Municipality) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to the requester's personal information. The requester also asked why and how police at a specific division had received information about him. The Municipality granted partial access to the records. The Municipality did not address the requester's questions in its decision letter. The requester appealed the denial of access.

During mediation, the Municipality granted access to all of the remaining records with the exception of the severed portion of page 4. The Ministry denied access to this portion of the record under the exemptions provided by the following sections of the Act:

- endanger life or safety - section 8(1)(e)
- discretion to refuse requester's own information - section 38(a)

The appellant stated that additional records should exist. In particular, the appellant indicated he had previously seen a 10-20 page police report in his file and that the caseworker assigned to his case had shown it to him.

A Notice of Inquiry was provided by this office to the appellant, the Municipality and a police officer named in the record (the police officer). Prior to the expiry of the deadline for the receipt of representations, the Municipality advised that it had already disclosed the remaining information to the appellant. Therefore, the only issue that remains in this appeal is whether the search conducted by the Municipality for records responsive to the request was reasonable in the circumstances.

Representations were received from the Municipality only.

## DISCUSSION:

### REASONABLENESS OF SEARCH

When a requester provides sufficient details about the records which he or she is seeking and the Municipality indicates that no additional records exist, it is my responsibility to ensure that the Municipality has made a reasonable search to identify any records which are responsive to the request. The Act does not require the Municipality 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 Municipality must provide me with sufficient evidence to show that it has made a reasonable effort to identify and locate responsive records.

The Municipality has provided an affidavit sworn by its Corporate Access and Privacy Manager (the Manager), responsible for ensuring that adequate searches for responsive records are conducted in response to requests made under the Act. Two files were identified as a result of the initial search: a case file and a fraud investigation file. The case file was disclosed to the

appellant in full. Upon completion of the investigation, the investigation file was also disclosed to the appellant in full.

The Manager indicates that both she and another employee had several discussions with the appellant in efforts to clarify the request and to address his questions. The Manager confirms that the appellant had raised the matter of the police report with her and that she had informed him that such a record was not found in the files. A further search of the two files was conducted by the Municipality which did not reveal the police report nor any other additional records.

The Manager states that she has received confirmation from the police officer that he has not seen nor does he have a copy of any police report related to the appellant. The Manager points out that it is not the Municipality's policy nor practice to collect police reports.

The Manager states that she also contacted the appellant's caseworker, identified by the appellant as the individual who had shown him the police report. The Manager was advised by the caseworker that he had neither seen nor did he remove a police report from the files. The caseworker advised the Manager that during a meeting with the appellant, the latter had noticed a photocopy of a newspaper article in the file, which pertained to matters between the appellant and the police. The caseworker advised the Manager that, at the request of the appellant, he shredded the article.

I have carefully considered the representations together with the circumstances of this case. I accept the submissions put forward by the Municipality and accordingly, I find that the Municipality's search for additional records responsive to the appellant's request was reasonable in the circumstances of this appeal.

**ORDER:**

This appeal is dismissed.

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

\_\_\_\_\_ May 6, 1996