



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

# **ORDER MO-1446**

**Appeal MA-000168-1**

**Halton Regional 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*) from a decision of the Halton Regional Police Service (the Police). The requester sought access to “any occurrence report(s), records of radio calls, any electronic or computer data recorded by officers and/or employees or persons who received any calls or requests for service” and copies of all attending officers’ memorandum books” relating to an incident that occurred on April 15, 2000 (the incident). The Police granted partial access to the occurrence report and notes of the investigating officer. However, they withheld other information, including the name of an identifiable individual and police codes, relying on the exemptions for law enforcement records under section 8 and for invasion of personal privacy under section 14 of the *Act*.

The appellant then requested information from an off-line search of the Canadian Police Information Centre (CPIC). CPIC is a centralized computer system managed by the Royal Canadian Mounted Police (RCMP). Police departments and agencies across Canada enter information into this system which is accessible to other departments and agencies through local computer terminals. An off-line search is a method of processing and searching the computer records on this database. To obtain an off-line search, a police agency submits a request to the RCMP. After the request is approved and a search completed, the RCMP forwards the results to the requesting police department. The search results then become a record in the custody and control of that police department.

The Police advised the appellant that they would not conduct an off-line search since they believed that the legislation did not require an institution to create a record that did not already exist.

The requester, now the appellant, appealed the decision of the Police.

During mediation, the Police disclosed the name that had been withheld from the investigating officer’s notes, and the appellant agreed that he did not require access to the police codes. The appellant further narrowed his access request to information relating to the incident found in i) a record of the communication between a police dispatcher and a police cruiser or between police cruisers, and ii) a record of an off-line CPIC search for that communication.

I initially sent to the Police a Notice of Inquiry that set out the facts and issues in this appeal. In response, the Police stated that no records exist of the communication between a police dispatcher and police cruisers or between police cruisers, and that no record of an off-line CPIC search exists.

The Police representations were sent to the appellant together with a Notice of Inquiry. The appellant made submissions in response, but objected to his representations being shared with the Police. In Interim Order MO-1399, I applied the confidentiality criteria to a specific portion of the appellant’s representations and determined that the criteria did not apply. Consequently, I provided the Police with part of the appellant’s submissions. The Police submitted representations in reply.

## **DISCUSSION:**

### **REASONABLENESS OF SEARCH**

In appeals involving a claim that further responsive records exist, as is the case in this appeal, the issue to be decided is whether the Police have conducted a reasonable search for the records as required by section 17 of the *Act*. The *Act* does not require the Police to prove with absolute certainty that further records do not exist. In order to properly discharge its obligations under the *Act*, the Police must establish that it has made a **reasonable** effort to identify and locate records responsive to the request (Order PO-1837). Although an appellant will rarely be in a position to indicate precisely which records have not been identified in the Police's response to a request, the appellant must, nevertheless, provide a reasonable basis for concluding that such records exist.

#### **Police Communication**

The appellant is seeking access to information contained in the electronic data transmissions from a police dispatcher to a police cruiser and between police cruisers. These communications are transmitted by means of a computer-like machine called a Mobile Digital Terminal (MDT) that is located in the police cruiser.

In their representations, the Police submit that their Manager of Technology and Systems Support confirmed that "no record is kept of MDT messages/communications [transmitted] between police cruisers or between dispatchers/other members of the Service and MDT's (sic)".

The appellant, in his submission, states that:

I requested a copy of the information contained in the call, received by the person who first took the call, and sent to the officers in the vehicle. This record **does** exist because I was given a copy.

The way I understand the Halton Police response is that the Halton Police state there is/are no records of the call and information passed to the officers that night. Somehow this record does exist.

I sent the Police a copy of this part of the appellant's submissions. In their reply representations, the Police state that they had provided to the appellant a copy of the "call history" of the incident, that is, a history of the communication between a police dispatcher and a police cruiser(s) or between police cruisers related to the incident. In spite of the submission by the Police that no record is kept of MDT messages between a dispatcher and cruisers, I am satisfied that the Police keep records of call histories and that the Police have provided the appellant with a copy of the call history related to the incident in question.

The appellant indicates that he has a copy of the type of record that he is seeking from the Police. Although the appellant was asked to provide this Office with a copy of this record, the appellant has not done so. Nevertheless I am convinced that the record he is referring to is the call history

provided to him by the Police and that the Police have no other record of the type of communication requested by the appellant.

On the material before me, I am satisfied that the Police have made a reasonable search for records of the communication between a police dispatcher and a police cruiser or between police cruisers.

### **Off-Line Search**

In their reply representations, the Police submit that “The Halton Regional Police did **not** input information into the CPIC system relating to the incident... (emphasis added).” If there is no information relating to the incident on the CPIC system, there can be no record on CPIC of the type of communication at issue. I am satisfied that the Police did not input information related to the incident into the CPIC system and that accordingly no record exists on CPIC of the information requested. Since I have found that no responsive record exists, I further find that no useful purpose would be served by requiring the Police to run an off-line CPIC search for such a record.

Prior to receiving the appellant’s submissions, the Police conducted a manual search for a record of an off-line search related to the incident. The Police, in their representations, explain that the unit in control of most of the requests for off-line searches is the Records Bureau. The Police submit that an Information Analyst in this bureau conducted a search, but was unable to find a record of an off-line search relating to the incident. The Professional Standards Bureau controls off-line searches related to sensitive internal investigations. An officer from this unit also searched his files, but was unable to locate a relevant off-line search.

The Police submit that since both its Records Bureau and Professional Standards Bureau were unable to locate an off-line search related to the incident, no such record exists.

I have carefully considered the evidence before me on this issue. In the circumstances, I am satisfied that all reasonable steps have been taken to identify responsive records.

### **ORDER:**

I find that the search by the Police for responsive records was reasonable and uphold the Police’s decision not to conduct an off-line search.

Original signed by: \_\_\_\_\_  
Dawn Maruno  
Adjudicator

\_\_\_\_\_  
June 22, 2001