

Information and Privacy Commissioner,  
Ontario, Canada



Commissaire à l'information et à la protection de la vie privée,  
Ontario, Canada

---

## ORDER MO-2910

Appeal MA13-31

Niagara Regional Police Services Board

June 28, 2013

**Summary:** The requester sought records from a police service located in a different community from his residence. He did not wish to travel in order to pick up the records, but wished to have them mailed to his home. The police granted access and requested that the requester either send notarized identification if he wished them to be mailed, or attend at the offices of the police service in his community to receive them. The police sent the records to the other police service in a sealed envelope. The requester appealed the method of access, asserting that the police had an obligation to mail the records to him without the requirement of notarized identification. This order upholds the decision of the police on the manner of giving access to the records.

**Statutes Considered:** *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, sections 19(b) and 23; section 2(3) of Regulation 823.

### OVERVIEW:

[1] The Niagara Regional Police Services Board (the police) received a request under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) as follows:

... to view and [obtain] copies of [named constable's] notes on November 10, 2012 to November 30, 2012 regarding the Ontario Ministry of Transportation survey and notes about myself.

[2] The requester lives in a different municipality from the police. The distance from his residence and the offices of the police is approximately 160 kilometres. The requester told the police that he did not wish to travel to their offices to pick up the records, and wanted them mailed. After the police located the records responsive to the request, they advised him that they mailed them to the office of the York Regional Police (York Police), the police service covering the requester's community. The police have stated that the records were mailed in sealed envelopes and no details of the request were released to the York Police.

[3] The requester was told that he could claim the package by producing suitable identification at the location specified.

[4] The requester (now the appellant) appealed the police's decision to send the requested records to another police service.

[5] During mediation, the mediator held discussions with the appellant and the police. The appellant indicated that he had advised the police that the distance he lives from the police station was an issue with regard to picking up the records. The appellant explained that he expected the records to be mailed to his home, and not sent to another police service. Further, he objected to the requirement to attend in person with identification.

[6] The mediator discussed the appellant's concerns regarding access with the police. The police advised that they have a policy whereby police records containing personal information cannot be sent by mail, unless the requester sends the police a copy of his/her identification that has been notarized. Alternately, a requester is required to attend the police station, and access to the record will be granted upon production of identification. The police will not, therefore, mail the records to the appellant without a copy of notarized identification. The appellant sent the police a copy of his identification, but it was not notarized.

[7] The police state that, as a courtesy, they sent the records to the York Police, which is closer to the appellant's residence. They did this without consulting the appellant. The appellant states that he did not want the records forwarded to the York Police.

[8] The appellant maintains that he should not have to attend the office of the York Police to retrieve the records and that access should be provided by mailing the records to his residence.

[9] Mediation did not result in a resolution of the appeal and the matter was moved to the adjudication stage of the process, where an adjudicator conducts an inquiry.

[10] I provided the appellant with the opportunity to provide representations on the issues. On my review of those representations, I decided it was unnecessary to seek a reply from the police as no issues were raised in those representations that required their response.

[11] In the discussion that follows, I find that the police met their obligations under the *Act* to provide access to the requested records to the appellant.

## **DISCUSSION:**

[12] Section 19 of the *Act* states:

Where a person requests access to a record, the head of the institution to which the request is made or if a request is forwarded or transferred under section 18, the head of the institution to which it is forwarded or transferred, shall, subject to sections 20, 21 and 45, within thirty days after the request is received,

- (a) give written notice to the person who made the request as to whether or not access to the record or part of it will be given; and
- (b) if access is to be given, give the person who made the request access to the record or part, and if necessary for the purpose cause the record to be produced.

[13] Section 19 of the *Act* requires an institution to grant a requester access to the record, if the institution decides that access is to be given.

[14] Further to the obligations under section 19, section 23 of the *Act* describes the two ways in which access to a record may be given, that is, either by allowing inspection of the record or by providing a copy. The relevant part of section 23 states:

- (1) Subject to subsection (2), a person who is given access to a record or a part of a record under this Act shall be given a copy of the record or part unless it would not be reasonably practicable to reproduce it by reason of its length or nature, in which case the person shall be given an opportunity to examine the record or part.

[15] In his submissions, the appellant states that when he made his request, he sent the police copies of his driver's license and passport. He submits that the police failed to provide access to the records because they refused to mail out the records until he provided them with notarized identification. He submits that at one point the police indicated that the records would be mailed to his home address (apparently without any

mention of notarization), but that he was later told they had been mailed to the York Police. He states that he did not wish them to be sent to the York Police.

[16] The appellant submits that although the police claim to uphold a strict policy due to the sensitive nature of the records, they acted with a callous disregard of his privacy when they sent his personal information to another police service.

### **Analysis**

[17] In the circumstances of this appeal, I find that the police complied with its obligations to disclose the records to the appellant. The *Act* requires that if a decision is to grant access, the institution must "give" the requester access to the record. It does not specify the manner in which access is to be "given", except to the extent that, in section 23, it allows for either a copy to be provided or the opportunity to examine a record. Where a copy is to be provided, the *Act* does not specify that the copy must be sent through hand-delivery, by mail to the requester's address, made available for personal pick-up, or any other method.

[18] There may be circumstances where, although access is ostensibly "given", the method for the actual delivery of the records is so onerous that it amounts to denial of access. I am not convinced that this is such a case. Here, the appellant had two choices: he could send notarized identification to the police if he wished to have the records mailed to his home address, or he could attend at the York Police (which is considerably closer to him than the offices of this police service) and present identification in person. The appellant sent the police copies of identification, but they were not notarized, and he objected to this requirement. The police have stated that it is their policy that access will not be given by mail unless a requester provides notarized identification. They offered a reasonable rationale for this policy which, I note, is consistent with section 2(3) of Regulation 823, requiring the police to verify the appellant's identity before giving him access to his personal information in the records:

A head shall verify the identity of a person seeking access to his or her own personal information before giving the person access to it.

[19] In these circumstances I find that, by giving the appellant the two options for obtaining the records, the police complied with its obligations to "give" the records to him.

[20] I recognize that one of the appellant's concerns was the decision by the police to deliver the records to the York Police, without first consulting with him. In the circumstances of this case, it would certainly have been preferable for the police to confirm with the appellant that, given the two options, he did not wish to exercise the option of having the records sent to the York Police, and wished instead to send notarized identification. I note that, as a result of the police's actions, the appellant

initiated a privacy complaint to this office, which has been separately dealt with and resolved.

[21] Finally, the appellant also relies on the fact that he was initially told that the records could be mailed to him, before the police subsequently advised him of their standard policy requiring notarization. Even if this is so, this in itself does not lead to the conclusion that the imposition of the notarization requirement was unreasonable or unduly onerous in the circumstances.

[22] Therefore, I find that the police complied with their obligations to give access to the records, as required under sections 19(b) and 23.

**ORDER:**

I uphold the decision of the police on the method of giving access.

Original signed by: \_\_\_\_\_  
Sherry Liang  
Senior Adjudicator

\_\_\_\_\_ June 28, 2013