



**Information and Privacy  
Commissioner/Ontario**

**Commissaire à l'information  
et à la protection de la vie privée/Ontario**

# **ORDER M-309**

## **Appeal M-940001**

### **York Regional Police Services Board**



80 Bloor Street West,  
Suite 1700,  
Toronto, Ontario  
M5S 2V1

80, rue Bloor ouest  
Bureau 1700  
Toronto (Ontario)  
M5S 2V1

# ORDER

On March 28, 1994, the undersigned was appointed Inquiry Officer and received a delegation of the power and duty to conduct inquiries and make orders under the provincial Freedom of Information and Protection of Privacy Act and the Municipal Freedom of Information and Protection of Privacy Act.

The York Regional Police Services Board (the Police) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to the "results" of an investigation of the appellant's family by a named employee of the Ontario Human Rights Commission (the OHRC) which were allegedly presented to the Police in late 1983 or 1984.

The Police denied access on the grounds that the record does not exist. The Police indicated that a search of its records for the relevant period disclosed no record. The Police also contacted the named employee of the OHRC and were advised that no such record was ever prepared by him. The requester appealed the decision of the Police, claiming that the record should exist.

Mediation was not successful and notice that an inquiry was being conducted to review the decision of the Police was sent to the Police and the appellant. Representations were received from both parties.

The sole issue in this appeal is whether the Police have conducted a reasonable search for responsive records.

In her representations, the appellant refers to a letter dated November 4, 1983 (a copy of which is on file), from the Deputy Chief of Police to the Chief of Police. The letter indicates that "[the named OHRC employee] is prepared to appear before the Board of Commissioners of Police ... and reveal the results of his investigation involving the [appellant's family]." Based on this, the appellant believes that a record should exist. The appellant has indicated that she previously made the same request to the OHRC which also advised that no such record exists.

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 which shows that it has made a **reasonable** effort to identify and locate records responsive to the request (Order M-275).

The representations of the Police include the sworn affidavit of the Freedom of Information Co-ordinator who is also the Secretary to the Regional Municipality of York Police Services Board (formerly the York Regional Police Commission). The affidavit states that a search of the minutes of meetings held during 1983 and 1984 was conducted to determine if the named OHRC employee had provided any information to the Police. The minutes reviewed disclosed no reference to the OHRC employee or the requested record. The rough notes made by the Secretary in 1983 and 1984 were also searched but revealed no evidence that the requested information was ever received by the Police either formally or informally. The affidavit further states that the named OHRC employee confirmed with the Secretary/Co-ordinator that he has never prepared a report about his investigation of the appellant's family.

I have carefully reviewed the representations of the parties, and the affidavit of the Police, and I am satisfied that the Police have taken all reasonable steps to locate any records responsive to the appellant's request.

**ORDER:**

I uphold the decision of the Police.

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

\_\_\_\_\_  
April 19, 1994