



Information and Privacy  
Commissioner/Ontario

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

# **ORDER M-311**

**Appeal M-9400023**

**Metropolitan Toronto Police Services Board**



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# 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 Metropolitan Toronto Police Services Board (the Police) received a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to any existing records relating to the requester. The requester provided his date of birth, his former name and information about a name change. In response to a request for clarification by the Police, the requester narrowed the scope of his request to include only the results of a search for any records which may be generated, including a blank printout, when his name(s) and birth date are entered into "the identification and records machinery".

The Police conducted the requested computer search which generated seven pages of records in the form of computer printouts. The first two pages contained only the requester's name and date of birth which had been entered into the computer. The other five pages contained the requester's name and date of birth plus information that was not responsive to the request. The Police granted the requester complete access to the first two pages and partial access to the remaining five pages with non-responsive portions removed. In their decision letter, the Police stated that access could not be provided as the record did not exist.

The requester appealed the decision of the Police, describing various incidents which he believes should have resulted in the creation of police records relating to him.

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 the Police only.

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

In their representations, the Police outline the steps taken to locate responsive records. Upon receipt of the request, the Police searched computerized information bank sources including Intelligence and Public Complaint Bureau files. The Police also ran a name search on microfilm from 1974 to the date of the request. No records responsive to the request were located. The Police then asked the appellant for clarification and conducted a second computer search of their computerized data bases. Again both the names and the birth date provided by the appellant were entered in an attempt to match it with any information that may exist in the data bases. The computer searches conducted by the Police did not result in any records responsive to the request. The seven pages of computer printouts which I have described previously were provided to the appellant.

While a requester's knowledge as to what records may be in the custody and control of an institution may vary, in my view, sections 36(1) and 38 of the Act place some obligation on the requester to provide as much direction to an institution as possible as to where the records that he/she is requesting may be located

and/or to describe the records sought. Where a requester provides sufficient details about the records to which he is seeking access and the Police indicate that no responsive records can be located, it is my responsibility to ensure that the Police have made a reasonable search to identify any records which are responsive to the request. In my view, the Act does not require that the Police prove to the degree of absolute certainty that such additional records do not exist.

Having reviewed the representations and other materials submitted to me, I am satisfied that the search conducted by the Police for records responsive to the appellant's request was reasonable in the circumstances.

**ORDER:**

I uphold the decision of the Police.

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

\_\_\_\_\_ April 20, 1994