



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

# **ORDER M-550**

**Appeal M-9500016**

**Durham 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). The Durham Regional Police Services Board (the Police) received a request for access to a copy of a named police officer's notebook for a specific date.

The Police located a record responsive to the request and initially granted the requester partial access, indicating that some information was being withheld as it was not responsive to the request. Subsequently, the Police issued a second decision in which they indicated that access to portions of the record was being denied on the basis of the following exemptions:

- invasion of privacy - sections 14(1) and 38(b).

The requester appealed this decision, claiming as well that additional records exist. During mediation, the appellant withdrew her objection to the denial of access. Accordingly, the sole remaining issue concerns the reasonableness of the search conducted by the Police.

A Notice of Inquiry was provided to the Police and the appellant. Representations were received from both parties.

## **DISCUSSION:**

### **REASONABLENESS OF SEARCH**

Where a requester provides sufficient details about the records which he or she is seeking and the Police indicate that such a record does not exist, it is my responsibility to ensure that the Police have made a reasonable search to identify any records which are responsive to the request. The Act does not require the Police to prove with absolute certainty that the requested record does not exist. However, in my view, in order to properly discharge their obligations under the Act, the Police must provide me with sufficient evidence to show that they have made a **reasonable** effort to identify and locate records responsive to the request.

The appellant indicates that she requested the police officer's notebook for his entire tour of duty for a specific date. She adds that according to other records she has, the police officer worked a 12-hour shift from 0700 to 1900 hours. She contends that part of the record is missing because the entries on the portions of the record she received end at 1500 hours. She argues further that the record indicates that the officer was assigned to take his lunch break at 1445 hours which is inconsistent with him working until 1500 hours.

As part of their representations, the Police have provided sworn affidavits from a clerk analyst in their Freedom of Information unit and from the officer identified in the request. The affidavit of the clerk analyst indicates that the Freedom of Information unit had possession of a copy of the police officer's notebook as a result of a previous access request made by the appellant. It was, therefore, not necessary to conduct a further search for it outside of that unit.

The affidavit of the named police officer indicates that in May 1993, he was directed to tender his notebook containing entries for the same date which was specified in the current request. He indicates that the notebook he tendered at that time contains his original entries concerning his duties on that date, and states that they are his only notes and that no deletions or additions have been made to the entries.

I have carefully reviewed the representations of both parties as well as the affidavits provided by the Police, and I am satisfied that the Police have taken all reasonable steps to locate the records responsive to the appellant's request.

**ORDER:**

I uphold the decision of the Police.

Original signed by: \_\_\_\_\_  
Laurel Cropley  
Inquiry Officer

\_\_\_\_\_ June 19, 1995