



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

# **ORDER M-648**

**Appeal M\_9500457**

**Durham Regional Police Services Board**



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## **NATURE OF THE APPEAL:**

On December 14, 1993, the Durham Regional Police Services Board (the Police) issued a press release. The press release dealt with the decision made by the Police Chief following an internal investigation into a public complaint made by a named individual against the Police and several of its officers.

The named individual, represented by an agent, subsequently submitted a request to the Police under the Municipal Freedom of Information and Protection of Privacy Act (the Act) for access to the name of the individual who issued the press release. The Police advised the agent that no responsive records existed. They stated that the Media Relations Unit, which issues press releases, does not maintain a log book recording the name of the individual who issues the press releases.

The agent appealed.

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

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

## **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 records do 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 representations of the Police include the affidavit of the officer who was in charge of the Police Media Relations Unit both at the time at which the press release was issued, and at the time that the Police received the request under the Act. The officer states that no records responsive to the request were located as a result of a search conducted to locate the name of the individual who issued the December 14, 1993 press release.

The Police have provided some information concerning the issuance of this particular press release, information which relates to some of the issues raised by the agent in her submissions.

The Police acknowledge that their standard news release form indicates the date, time and person issuing the news release, the latter being the information requested in this case. The Police state, however, that:

... [the] statement of December 14, 1993, was not a standard News Release and therefore was not recorded on a standard News Release form.

The Police further state that their usual practice is to disseminate news releases to the media by way of an unsolicited fax. In this case, the statement contained in the news release was only released to the media when a direct request for the statement was received. A note to this effect is written on the copy of the press release provided to this office. Moreover, the officer in charge of the Media Relations Unit indicated that only he and the officer in charge of the Operational Control Unit were authorised to release the statement and then, as well, only in response to a specific media request.

The Freedom of Information and Privacy Co-ordinator of the Police (the Co-ordinator) has provided an explanation of why this news release was not written on the standard form and disseminated in the usual manner. As previously noted, on the date in question, December 14, 1993, the Police Chief issued his decision following an internal investigation into a public complaint made by a named individual. The Co-ordinator stated that, in the event that the media became aware of this fact and posed questions to the Police, the Police wanted to have a written statement available to respond to any queries. This was not a situation in which they were actively disseminating information to the media. The Police state that that is why the statement of the Chief was not a typical press release, prepared on the standard form with a notation of the name of the individual who prepared it.

Based on the submissions of the Police and the agent, I am satisfied that the Police have conducted a reasonable search for records responsive to the agent's request. Whether, as the agent suggests, the Police may not have followed their own policies for issuing press releases in this case, is a matter beyond the jurisdiction of this office.

**ORDER:**

I uphold the decision of the Police.

Original signed by: \_\_\_\_\_  
Anita Fineberg  
Inquiry Officer

\_\_\_\_\_ November 16, 1995