



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

ORDER MO-1302

Appeal MA-990300-1

Peel Regional Police Services Board



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

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

416-326-3333
1-800-387-0073
Fax/Télé: 416-325-9195
TTY: 416-325-7539
<http://www.ipc.on.ca>

NATURE OF THE APPEAL:

In October of 1998, the appellant made a request under the Municipal Freedom of Information and Protection of Privacy Act (the Act) to the Peel Regional Police Services Board (the Police). The request was for access to all records pertaining to surveillance of the appellant. At that time, the appellant was advised that “access is denied to the information you requested pursuant to subsections 8(1)(g) and 8(3) of the Act.” The appellant did not appeal this decision.

In October of 1999, the appellant made an identical request to the Police. The Police informed the appellant that “access cannot be provided because the record does not exist.”

The appellant appealed the decision in response to his October, 1999 request. He is convinced that responsive records do exist because of what he has identified as a discrepancy between the two decision letters. He also alleges that he has been “harassed consistently by police and non-police personnel in addition to the surveillance on an on-going basis since March 98.”

I initially sent a Notice of Inquiry to the Police. After reviewing the representations provided by the Police, I sent the Notice of Inquiry to the appellant, together with a copy of the non-confidential representations of the Police. The appellant provided representations in response.

DISCUSSION:

REASONABLENESS OF SEARCH

Where a requester provides sufficient detail about records he is seeking and the Police indicate that further records do not exist, it is my responsibility to ensure that the Police have made a reasonable search to identify any responsive records. The Act does not require the Police to prove with absolute certainty that further 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 to show that it has made a **reasonable** effort to identify and locate all responsive records.

The appellant submits that he has never been arrested or had any problems with the police. However, he believes he is the subject of a large, well co-ordinated surveillance network consisting of downtown cabs, pedestrians with a “down and out” or “gang-like” look, city workers, postal employees, Bell Telephone workers, community police assistants, bikers and a daily group of 4 or 5 vehicles including marked and unmarked police cars. He submits that he has experienced the same surveillance and harassment in Vancouver, Toronto, Brampton, Ottawa and Montreal. He indicates that the group “informs” him of their presence through a variety of techniques, including revving their engines, screeching on brakes, blasting very loud music, throwing garbage out their window, glaring headlights at night, turning U-turns within his view, and having the police members quickly drive by him, sometimes with a brief siren blast. He also submits that they use another technique of placing pieces of garbage in symmetrical positions along his route to work in order to attract his attention. In support of his submissions, the appellant has provided me with approximately 230 photographs of police vehicles and approximately 138 photographs of garbage he has sighted on his route to work.

The appellant believes that because most of the surveillance and harassment he endures is exercised by non-police personnel, any Police department and/or bureau which supervises and interacts with any of the local Neighbourhood Watch, Brampton Crime Prevention Association, Safe City Campaign and other citizen patrol organizations should be searched for records responsive to his request. He also believes that records from these organizations should also be searched.

The Police submit that when requests for surveillance records are received, its normal practice is to refuse to confirm or deny the existence of such records under section 8(3), with reference to section 8(1)(g). Section 8(1)(g) states that the Police may refuse to disclose a record if disclosure could reasonably be expected to interfere with the gathering of or reveal law enforcement intelligence information respecting organizations or persons. The decision provided to the appellant in 1998 followed this practice.

The Police state that it was subsequently informed that it would be in the appellant's best interests to be advised that no records exist if that was the case.

The Police indicate that on receipt of the appellant's 1999 request, it determined that if the requested records exist, they would be kept in its Intelligence Services bureau. The Intelligence Services bureau was searched for responsive records and it was determined that no such records existed. Accordingly, the Police informed the appellant that no responsive records exist.

In my view, the Police have made reasonable efforts to search for and locate responsive records.

Although the appellant does not accept the explanations provided by the Police, I find that they are sufficient to establish that the Police have complied with the requirements of the Act.

ORDER:

I dismiss this appeal.

Original signed by: _____
Holly Big Canoe
Adjudicator

_____ May 10, 2000