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

ORDER PO-1845

Appeal PA_990330_1

Ministry of the Solicitor General

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NATURE OF THE APPEAL:

This is an appeal under the *Freedom of Information and Protection of Privacy Act* (the *Act*), from a decision of the Ministry of the Solicitor General (the Ministry). The appellant submitted a four-part request to the Ministry for information in the files of specified Ontario Provincial Police (OPP) Detachments, as well as certain hospital records. The request was subsequently narrowed to parts 2 and 3 only, which cover OPP files relating to herself from the Kemptville Detachment (part 2 of the request) and the Ottawa Detachment (part 3 of the request).

The Ministry located a number of responsive records and granted partial access to them. Of 49 pages of documents, seven were disclosed in full. Access was denied to the entirety of two pages, while portions of each of the remaining pages were disclosed. In denying access to some of the information, the Minister referred to sections 49(a), 14(1)(l), 14(2)(a), 49(b), 21(2)(f), 21(2)(h) and 21(3)(b) of the *Act*. In its decision, the Ministry also indicated that certain information has been withheld as it is not responsive to the request.

The appellant appealed the Ministry's decision.

During mediation, the appellant advised the Mediator that she felt additional records responsive to her request should exist. The appellant explained that with respect to the OPP Kemptville Detachment, additional records should exist for the approximate time period of July 1998 to July 1999. The appellant explained that during this time period, the OPP visited her house on a number of different occasions and that she is seeking access to all records relating to such visits.

With respect to the OPP Ottawa Detachment, the appellant explained that she is seeking access to the "Form 1", which is referred to on page 29 of the records at issue.

In turn, the Ministry conducted a further search for records, and issued a supplementary decision on December 6, 1999. In this decision, the Ministry advised the appellant that additional records have been located. In all, eight additional pages were located, and access to portions of each page was granted to the appellant. Access to the remainder of the information was denied pursuant to sections 49(a), 14(1)(l), 14(2)(a), 49(b), 21(2)(f) and 21(3)(b) of the *Act*. The Ministry also indicated that some information has been withheld as it is not responsive to the request.

In its December 6, 1999 decision, the Ministry also advised the appellant, with respect to her contention that additional records should exist, that some incidents are noted in officers' notebooks, but do not necessitate a computerized entry. In order to assist the Ministry in locating records "pertaining to non-reportable incidents and/or officers' notes," it requested the appellant to provide the date and time of the incident and the name of the officer(s) involved.

The Ministry further advised the appellant that the Ottawa Detachment was unable to locate a copy of the Form 1 as requested.

Following the issuance of the Report of the Mediator which identified the issues and exemptions remaining to be resolved through adjudication, the Ministry issued a further supplementary decision indicating that certain information on page 22 of the first group of records located is responsive to

the appellant's request. The Ministry had previously claimed that this information was not responsive. The Ministry granted partial access to the information on this page, relying on the exemptions in sections 49(a)/14(1)(l) and 49(b) for the severed portions of the responsive information. The Ministry reiterated that some information on this page is not responsive to the appellant's request.

A Notice of Inquiry, summarizing the facts and issues in the appeal, was sent to the Ministry, initially. In response, the Ministry submitted representations, the non-confidential portions of which were sent to the appellant along with an amended Notice of Inquiry. The appellant submitted representations in turn. I also decided to notify an affected person, a doctor, who has submitted representations on some of the issues.

It should be noted that along with its representations, the Ministry enclosed a further decision letter in which it indicates that following another search for responsive records by the Kanata Detachment, more records were located, including the "Form 1" referred to above. The Ministry issued a decision on access to these records. The appellant was notified in the Notice of Inquiry that this decision does not form part of this appeal; accordingly, she must determine independently whether she wishes to pursue this decision on appeal.

RECORDS:

There are two groups of records, corresponding to different decisions. Group 1 consists of 49 pages of documents. Group 2 consists of 8 pages of documents.

The records at issue consist of General Occurrence Reports (Group 1: pages 1 to 4, 24 to 25 and 28 to 32), Supplementary Reports (Group 1: pages 5 to 11), excerpts from various police officer's notebooks (Group 1: pages 12 to 23, 26 to 27, 33 to 44 and 45 to 49; Group 2: pages 4 to 8) and computer printouts titled "Incident Details" and "Complainant Details" (Group 2: pages 1 to 3). In this decision, I shall treat each occurrence report and supplementary report, the computer printouts and each excerpted section of a police officer's notebook as a separate record.

The Ministry has made the following decisions regarding the records:

- **non-responsive** - portions of Group 1, pages 8, 10, 12, 19, 21 to 24, 26 to 28, 32, 44 to 46 and 49 and Group 2, pages 1 to 8**;**
- **49(a) and 14(1)(l) -** portions of Group 1, pages 12, 14, 18, 19, 22, 23, 30, 36 to 39, 43, 47 and 49 and Group 2, page 6;
- **49(a) and 14(2)(a) -** portions of Group 1, pages 1 to 6, 8 to 11, 24, 25, 28 to 32 and Group 2, pages 1 to 3;
- **49(b) and 21** - portions of Group 1, pages 1 to 6, 8 to 14, 17, 18, 20, 22 to 32, 36 to 38, 43, 46 to 49 and Group 2, pages 1 to 6; the entirety of Group 1, pages 15 and 16.

CONCLUSION:

I uphold the Ministry's decision to withhold all of the severed portions of the records, with the exception of certain portions which I found not to contain the personal information of any individual other than the appellant.

DISCUSSION:

NON-RESPONSIVE RECORDS

As has been noted in many orders, the determination by an institution of which documents are relevant to a request is a fundamental first step in responding to a request under the *Act*. Further, as was stated in Order P-880, it is the request itself that "sets out the boundaries of relevancy and circumscribes the records which will ultimately be identified as being responsive to the request." In applying the notion of "responsiveness," prior orders have generally looked to whether information in the documents is "reasonably related" to the request. Further, it is well-established that a record may contain information which is responsive to a request alongside information which is non-responsive and which may accordingly be withheld (Order P-880).

I agree with this analysis and adopt it for the purposes of this appeal. As I have set out above, the appellant's request was for files with specified OPP detachments, which relate to herself. The Ministry has submitted that the information in the records which it has identified as non-responsive are either administrative in nature, such as indications about the time, date and number of the individual who retrieved the record from the system, or consist of notes relating to other investigations, and not to the appellant.

I have reviewed the portions of the records marked either as "N/R (non-responsive)" or "information not relevant to your request." Some of these portions, as described by the Ministry, contain information which is related to the retrieval of the record in response to the request, as distinct from information forming part of the record *per se*. These portions are found on pages 8, 10, 28 and 32 of Group 1, and pages 1 to 8 of Group 2. Other portions contain information about occurrences or activities which are not related to the appellant's request, and are found on pages 12, 19, 21 to 23, 26, 27, 44 to 46 and 49 of Group 1, and pages 4 to 6 and 8 of Group 2.

I am satisfied that the portions referred to above are not reasonably related to the appellant's request and were properly withheld as being non-responsive to the request.

The remaining discussion relates to those portions of the records which were withheld by the Ministry relying on exemptions under the *Act*.

PERSONAL INFORMATION

It is necessary to decide, firstly, whether the records contain personal information, and if so, to whom that personal information relates, for the answer to these questions determines which parts of the *Act* may apply.

Under section 2(1) of the *Act*, "personal information" is defined, in part, to mean recorded information about an identifiable individual, including any identifying number assigned to the individual and the individual's name where it appears with other personal information relating to

the individual or where the disclosure of the name would reveal other personal information about the individual.

> The submissions of the Ministry state in general that the records contain information about identifiable individuals, other than the requester, in accordance with section 2(1) of the *Act*.

As indicated above, the records consist of General Occurrence Reports, Supplementary Reports, excerpts from OPP officers' notebooks, and computer printouts, relating to incidents in which the appellant was involved. There are several different occurrences documented in the records, and the appellant is identified as either "victim," "charged" or "complainant." In general, the records contain information about named individuals who were involved in the incidents in some manner, including OPP officers, the appellant, and other persons. They contain information, among other things, about how the persons came to be involved in the incidents, their actions and observations, and identifying information such as dates of birth and addresses.

Having reviewed the records, I am satisfied that they each contain the personal information of the appellant. I am also satisfied that they each contain, to a greater or lesser degree, the personal information of individuals other than the appellant. Having made this finding, it should also be noted that some of the severed portions of pages 2 to 4, 6, 8 to 11, 14, 17, 18, 22, 23, 29, 37, 38, 43, 48 and 49 of Group 1 contain information which consists of the names and badge numbers of ambulance attendants, the names of doctors who were involved in the events, and information or opinions about the appellant expressed by the doctors. Previous decisions of this office have drawn a distinction between an individual's personal, and professional or official government capacity, and found that in some circumstances, information associated with a person in his or her professional or official government capacity will not be considered to be "about the individual" within the meaning of section 2(1) definition of "personal information": see, for instance, Orders P-257, P-427, P-1412 and P-1621 and Reconsideration Order R-980015.

Based on the analyses in the above decisions, I find that the names and badge numbers of the ambulance attendants and the names of the doctors are not the "personal information" of those individuals within the meaning of the *Act*.

As I have indicated, some of the information on these pages consists of opinions expressed by doctors about the appellant, and information conveyed by doctors about the appellant's medical, psychiatric or psychological condition or history. The definition of "personal information" found in section 2(1) of the *Act* specifies that it includes:

(b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved

Section 2(1) also defines "personal information" to include:

> (g) the views or opinions of another individual about the individual

By application of section 2(1)(b), some of the information provided by doctors in the above-noted pages is the personal information of the appellant, since it consists of her medical, psychiatric or psychological history.

Further, to the extent that the rest of the information provided by doctors in the above-noted pages consists of opinions about the appellant, this information is also the personal information of the appellant by application of section 2(1)(g).

I am unable to find that the opinions or information conveyed by doctors about the appellant constitute the personal information of the doctors. It has been established in previous orders that if an individual's views relate to another individual, that information is the personal information of the other individual within the meaning of paragraph (g) of the definition, but is not the personal information of the individual expressing the views or opinions: see, for instance, Order 194. Additionally, even if it could be said that any of this information was about the doctors, in addition to being about the appellant, it is information about the doctors in their professional capacities, and so does not qualify as *personal* information: see above.

It should be noted that one of the doctors was notified of this appeal as an affected person, and submitted representations on some of the issues. These representations did not address the issue of whether the information about this doctor found in the records was her personal information.

Having found that the records contain the personal information of the appellant, I now turn to a discussion of the exemptions relied on by the Ministry in denying access to some of that personal information.

DISCRETION TO REFUSE REQUESTER'S OWN INFORMATION/INVASION OF PRIVACY

Where records contain personal information of individuals other than the appellant

Section 47(1) of the *Act* gives individuals a general right of access to their own personal information held by an institution. Section 49 provides a number of exceptions to this general right of access.

Section 49(b) of the *Act* provides:

> A head may refuse to disclose to the individual to whom the information relates personal information,
>
> > if the disclosure would constitute an unjustified invasion of another individual's personal privacy;

Under section 49(b), where a record contains the personal information of both the appellant and other individuals and the institution determines that the disclosure of the information would constitute an unjustified invasion of another individual's personal privacy, the institution has the

discretion to deny the requester access to that information. The institution may also decide to grant access despite this invasion of privacy.

Section 49(b) introduces a balancing principle. The institution must look at the information and weigh the requester's right of access to his or her own personal information against other individuals' rights to the protection of their personal privacy. If the institution determines that release of the information would constitute an unjustified invasion of another individual's personal privacy, then section 49(b) gives the institution the discretion to deny access to the personal information of the requester.

In considering the application of section 49(b), sections 21(2) and (3) of the *Act* provide guidance in determining whether disclosure would result in an unjustified invasion of personal privacy. Section 21(2) provides some criteria for the head to consider in making this determination. Section 21(3) lists the types of information whose disclosure is presumed to constitute an unjustified invasion of personal privacy.

With respect to section 21(3), the Divisional Court has stated that once a presumption against disclosure has been established, it cannot be rebutted by either one or a combination of the factors set out in 21(2) [*John Doe v. Ontario (Information and Privacy Commissioner*) (1993), 13 O.R. (3d) 767]. In other words, once section 21(3) is found to apply, the factors in section 21(2) cannot be resorted to in favour of disclosure.

In applying sections 21 and 49(b) to the facts of this case, I am also guided by section 10(2) of the *Act* which requires the disclosure of "as much of the record as can reasonably be severed without disclosing the information that falls under one of the exemptions."

Among other things, the Ministry submits that the personal information contained in the records is covered by the presumption set out in section 21(3)(b):

> A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy where the personal information,
>
> > was compiled and is identifiable as part of an investigation into a possible violation of law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation;

The Ministry states that the records were compiled during the course of several different law enforcement investigations. Referring to the *Police Services Act*, the Ministry states that the OPP is an agency which has the function of enforcing and regulating compliance with law. Its officers conducted investigations to determine if there were any breaches of statute or the *Criminal Code*, during the course of which information was gathered.

I am satisfied that the personal information in the records was compiled and is identifiable as part of an investigation into a possible violation of law. Three separate investigations are represented in the records: an investigation concerning the *Liquor Act*, an investigation into a dispute involving the appellant and a tenant, and an investigation into possible impaired driving or

careless driving charges. All of the records, whether they be occurrence reports, OPP computer printouts, or excerpts from police officers' notebooks, contain information gathered as part of one or another of these investigations. It does not matter whether or not charges flowed from any of the investigations, since the application of section 21(3)(f) is not dependent on charges being laid: see, for instance, PO-1715.

I find therefore that, to the extent that the records contain the personal information of individuals other than the appellant, disclosure of this personal information must be presumed to constitute an unjustified invasion of the personal privacy of those individuals.

As I have indicated above, section 49(b) provides the Ministry with a discretion to release the information *even* if it might constitute an unjustified invasion of the personal privacy of the other individuals. In its representations, the Ministry has referred, among other things, to the sensitivity of the information and the circumstances of its collection, as part of a police investigation. I am satisfied that the Ministry has properly exercised its discretion under section 49(b), and I uphold the Ministry's decision to deny access to this information under section 49(b) of the *Act*.

Where records contain non-personal information of individuals other than the appellant

I have found above that some of the information severed from pages 2 to 4, 6, 8 to 11, 14, 17, 18, 22, 23, 29, 37, 38, 43, 48 and 49 of Group 1 is not the personal information of individuals other than the appellant, insofar as it consists of names and badge numbers of ambulance attendants and names of doctors. Because of this finding, the disclosure of this information would not constitute an unjustified invasion of the personal privacy of these individuals. Accordingly, the appellant is entitled to have access to this information. Further, other information severed from these pages which consists of information or opinions about the appellant provided by doctors, is also not the personal information of the doctors, but is the personal information of the appellant. Again, the appellant is entitled to have access to this information, whose disclosure would not constitute an unjustified invasion of the personal privacy of other individuals.

As I have stated, one of the doctors whose information or views are recorded in the records (on pages 8, 17, 22, 23, 29, 37, 38, 43, 48 and 49 of Group 1) submitted representations on some of the issues raised by this appeal. This doctor expresses a concern about disclosure of some of the statements in the records which are attributed to her. She states:

> In the police report I have been quoted as referring to [the appellant] as a "[term withheld]" and a "[term withheld]." Put simply, I was incorrectly quoted in this report. Normally I do not use these terms even in casual conversation. I would request that you withhold this erroneous and inflammatory information from [the appellant] as I don't think it will add anything to her knowledge of what really transpired on that day.

I appreciate this individual's concern about disclosure of this information to the appellant, particularly if it is true that she has been misquoted in the police report. Once it has been established, however, that this information is the personal information of the appellant, and is not

the personal information of another individual, the appellant is entitled to have access to the information. The concern about accuracy is recorded here, for the benefit of the affected person and of the appellant, when she receives this information.

It should be noted that under the *Act*, the accuracy of personal information is a factor which may be taken into account in assessing whether disclosure of that information would constitute an unjustified invasion of personal privacy (see section 21(2)(g). However, since I have found that this information does not qualify as the personal information of the affected person, section 21(2)(g) has no application. Further, in other sections of the *Act* there are provisions under which individuals have a right to the correction of personal information about themselves found in government records (see section 47(2)). Without implying that section 47(2) applies to the circumstances of this case, in my view, this provision does suggest that, rather than weighing *against* the disclosure of this information to the appellant, the alleged inaccuracy of this information may actually lend support to the appellant's request to have access to the information.

In sum, I have found that the pages at issue here contain personal information of the appellant, and not of the affected person. On this basis, I find that it would not be an unjustified invasion of the personal privacy of another individual to provide access to this information to the appellant.

Having reached this conclusion, I must now consider whether this information should nonetheless be withheld under other exemptions relied on by the Ministry.

DISCRETION TO REFUSE REQUESTER'S OWN INFORMATION/LAW ENFORCEMENT

In addition to section 49(b), section 49(a) also provides an exception to the general right of individuals to have access to their personal information. Under section 49(a), an institution has the discretion to deny access to an individual's own personal information in instances where, among others, the exemptions in section 14 would apply to the disclosure of that personal information. In this case, the Ministry has claimed the application of section 14(2)(a) for the withheld information in all of the records and further, the application of section 14(1)(l) to portions of the withheld information.

Law Enforcement Report - Section 14(2)(a)

As described, the records consist of Occurrence Reports, Supplementary Occurrence Reports, OPP computer printouts and excerpts from OPP officers' notebooks. Section 14(2)(a) reads as follows:

> A head may refuse to disclose a record,
>
> > that is a report prepared in the course of law enforcement, inspections or investigations by an agency which has the function of enforcing and regulating compliance with a law;

Only a report is eligible for exemption under this section. The word "report" is not defined in the *Act*. For a record to be a report, it must consist of a formal statement or account of the results of the collation and consideration of information (Order P-200). Generally speaking, results would not include mere observations or recordings of fact (Order M-1048).

In order for a record to qualify for exemption under section 14(2)(a) of the *Act*, the Ministry must satisfy each part of the following three part test:

1. the record must be a report; **and**

2. the report must have been prepared in the course of law enforcement, inspections or investigations; **and**

3. the report must have been prepared by an agency which has the function of enforcing and regulating compliance with a law.

[Orders 200 and P-324]

The Ministry states that the *Police Services Act* provides the primary statutory base for the existence of the OPP, its authority, jurisdiction, discipline and other pertinent matters in the provision of police services to the parts of this province that do not have municipal police forces. The Ministry submits that the records at issue meet the three-part test outlined above in that:

- These reports were the official formal accounting of facts regarding investigations which were conducted. These reports provided information and/or opinions gathered as a result of interviews with the subjects of the investigation. The information was assessed, evaluated and were [sic] then submitted as a report with a final disposition.

- These reports were prepared by the OPP an agency which has the function of enforcing and regulating compliance with a law.

- The information was gathered and prepared during a law enforcement matter and/or investigation. The matter at hand specifically relates to their investigation of separate incidents related to the appellant.

The appellant has not made submissions on this issue.

In my view, it has been established that the records at issue were prepared in the course of law enforcement investigations, by an agency which has the function of enforcing and regulating compliance with a law.

However, after review of the records and the submissions of the parties, I am satisfied that the excerpts from the OPP officers' notebooks do not meet the definition of "report" under the *Act*. They do not constitute formal statements or accounts of the results of the collation and

consideration of information, but consist of observations and recordings of fact made by officers during the course of their investigations.

Likewise, the OPP computer printouts contain routine details of incidents such as might be gathered by an OPP staff person receiving an initial call from a complainant. The information included in these printouts does not include any assessment or evaluation.

The remaining records to be considered consist of the occurrence reports and supplementary reports compiled in relation to the incidents. Generally, OPP occurrence reports and supplementary reports and similar records of other police agencies have been found not to meet the definition of "report" under the *Act*, in that they have been found to be more in the nature of recordings of fact than formal, evaluative accounts of investigations: see, for instance, Orders PO-1796, P-1618, M-1341, M-1141 and M-1120. In Order M-1109, Assistant Commissioner Tom Mitchinson made the following comments about police occurrence reports:

> An occurrence report is a form document routinely completed by police officers as part of the criminal investigation process. This particular Occurrence Report consists primarily of descriptive information provided by the appellant to a police officer about the alleged assault, and does not constitute a "report."

On my review of the occurrence reports and supplementary reports at issue in this appeal, I am satisfied that they also do not meet the definition of "report" under the *Act*, in that they consist essentially of observations and recordings of fact. Although there are a few comments by OPP officers which might be considered evaluative, the records consist primarily and essentially of descriptive information.

I therefore conclude that none of the records fall under the exemption contained in section 14(2)(a) of the *Act*.

Disclosure facilitating crime or hampering control of crime - section 14(1)(l)

Section 14(1)(l) provides:

> A head may refuse to disclose a record where the disclosure could reasonably be expected to,
>
> > facilitate the commission of an unlawful act or hamper the control of crime.

The Ministry claims that section 14(1)(l) applies to portions of the records which contain OPP message codes, commonly known as "ten-codes." In its representations, the Ministry states, among other things, that release of the ten-codes would leave OPP officers more vulnerable and compromise their ability to provide effective policing services. It asserts that if individuals engaged in illegal activities were monitoring OPP radio communications and had access to the meanings of the various ten-codes, it would be easier for them to carry out criminal activities and would jeopardize the safety of OPP officers who communicate with each other on publicly accessible radio transmission space.

Prior orders have upheld the application of section 14(1)(l) or its municipal equivalent to "ten-codes" (see Orders M-393, M-757 and PO-1777), and I agree with the approach in these decisions. I am satisfied that disclosure of the ten-codes would leave OPP officers more vulnerable and compromise their ability to provide effective policing services and accordingly could "reasonably be expected to facilitate the commission of an unlawful act or hamper the control of crime" within the meaning of section 14(1)(l). I also find that the Ministry has properly exercised its discretion under section 49(a) to deny access to the information.

REASONABLE SEARCH

In appeals involving a claim that further responsive records exist, as is the case in this appeal, the issue to be decided is whether the Ministry has conducted a reasonable search for the records as required by section 24 of the *Act*. If I am satisfied that the search carried out was reasonable in the circumstances, the decision of the Ministry will be upheld. If I am not satisfied, further searches may be ordered.

Where a requester provides sufficient detail about the records which she is seeking and the Ministry indicates that further records do not exist, it is my responsibility to ensure that the Ministry has made a reasonable search to identify any records which are responsive to the request. The *Act* does not require the Ministry 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 Ministry must provide me with sufficient evidence to show that it has made a **reasonable** effort to identify and locate records responsive to the request.

Although an appellant will rarely be in a position to indicate precisely which records have not been identified in the Ministry's response to a request, the appellant must, nevertheless, provide a reasonable basis for concluding that such records exist.

In this case, the appellant is of the view that additional records responsive to her request should exist. In particular, she feels that, with respect to the OPP Kemptville Detachment, additional records should exist for the approximate time period of July 1998 to July 1999. The appellant states that during this time period, the OPP visited her house on a number of different occasions and she is seeking access to all records relating to such visits. This aspect of the appeal raises two issues in relation to the search for records. First, the appellant suggests that the OPP has hidden or destroyed records. Second, there is an issue as to whether the OPP has made a reasonable effort to locate records.

In her representations, the appellant also states that she wishes to have records about a phone call to her home in relation to a visit in December, 1999. Since these records are not covered by the scope of the appellant's request and have not been part of the issues in dispute in this appeal, I will not deal with them here, but advise the appellant to submit a new request under the *Act* if she wishes.

In a decision letter, the Ministry, among other things, advised the appellant that not all incidents are entered into its computers. Some incidents may only be noted in officers' notebooks. In order to assist it in locating records relating to her request, the Ministry asked the appellant to

provide further information as to the date(s) and time(s) of these incidents, and the names of the officers involved. In response to some information from her about a visit from a municipal building inspector, the OPP were able to determine the date and time of one incident and located responsive records accordingly. No further information of the sort requested by the Ministry was provided by the appellant, and no further records located.

In various correspondence on this matter, and in her representations, the appellant has referred to newspaper reports about the Kemptville detachment of the OPP. The appellant has enclosed copies of these reports, which describe a high-profile murder trial in which a judge stayed proceedings and made critical comments about the conduct of members of the OPP. Among other things, the judge found that OPP officers had destroyed computerized records relating to the criminal charges. The appellant states that the same individual who was the head of the detachment which was the subject of the judge's comments was also responsible at the time of the incidents in which she was involved. She suggests that the OPP have also hidden records pertaining to herself.

These newspaper reports do not establish to my satisfaction that more records exist or existed in this case than have been located by the Ministry. In the absence of more specific information, I cannot reasonably infer from newspaper reports about an entirely separate case that records were either destroyed or hidden by the OPP in relation to the appellant's request.

Further, I am satisfied that the Ministry has made a reasonable effort to identify and locate records responsive to the appellant's request. It asked her for further information and was also successful in uncovering time and date details about one incident (which the appellant was unable to provide) by contacting a municipal building inspector. It has conducted several searches, made efforts to locate further records, and provided details about its efforts in its representations. I conclude that the Ministry's search for records was reasonable and I dismiss this part of the appeal.

It should be noted that the appellant's representations contain a number of questions about the incidents, which she feels have not been adequately answered by the records disclosed to her. It has been established in prior orders that where a requester seeks, in essence, answers to questions rather than access to records, the *Act* does not require an institution to create records: see, for instance, Order P-995. In the case before me, the records which have been located may not provide the appellant with all the information she seeks, but the *Act* can only provide her with that information when it is found in a record which can be reasonably located. It has been established to my satisfaction that the Ministry has made reasonable efforts to locate records which might contain further information.

Before concluding, I return to an issue which has been raised several times by the appellant. As indicated earlier in this decision, the appellant wishes to have a copy of Form 1 relating to herself. In a decision which is not part of this appeal, the Ministry has indicated that it located a copy of this Form 1. However, since in its view access to this record is not governed by the provisions of this *Act*, the Ministry informed the appellant that she must make a request to the Ottawa General Hospital for access to the record.

In her representations, the appellant once again states that she wishes to have access to the Form 1. For the benefit of the appellant, I stress once again that the decision of the Ministry denying access to the Form 1 (which decision is undated but is attached to the Ministry's representations of August 18, 2000) *does not form part of this appeal.* It was open to the appellant to file a new appeal with respect to this decision; regardless, the Ministry has also indicated that the appellant may request her clinical records from the Ottawa General Hospital.

ORDER:

1. I order the Ministry to disclose the portions of pages 2 to 4, 6, 8 to 11, 14, 17, 18, 22, 23, 29, 37, 38, 43, 48 and 49 of Group 1 whose disclosure I have found would not constitute an unjustified invasion of personal privacy of individuals other than the appellant. For greater certainty, I have provided a copy of the unsevered records for the Ministry highlighting those portions which shall be disclosed.

2. I uphold the Ministry's decision to deny access to the other parts of the records at issue.

3. I find that the Ministry's search for responsive records was reasonable.

4. In order to verify compliance with Provision 1 of this order, I reserve the right to require the Ministry to provide me with a copy of the records which it provided to the appellant.

5. I order disclosure to be made by sending the appellant a copy of the records, excluding the exempted portions, by **January 25, 2001**, but not before **January 19, 2001.**

Original signed by: December 18, 2000
Sherry Liang
Adjudicator