



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

# **INTERIM ORDER MO-1399-I**

**Appeal MA\_000168\_1**

**Halton Regional Police Services Board**



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## **NATURE OF THE APPEAL:**

The Halton Regional Police Service (the Police) received a request for access to information under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*). The appellant sought access to records, reports, electronic or computer data and notes relating to an incident which occurred on April 15, 2000.

The Police identified records responsive to the request and granted the appellant access to certain records, but withheld parts of records that had references to ten-codes and statistical zone codes. The Police also advised the appellant that they would not conduct an “off-line” search for responsive electronic records.

The appellant appealed the decision of the Police to this Office.

During mediation, the Police disclosed information from the investigating officer’s notes, the appellant confirmed that he was not seeking access to the ten-codes or the statistical zone codes and the appellant narrowed his request to include only information found in i) records of communication between dispatch and a police cruiser or between police cruisers, and ii) an “off-line” search.

I initiated the inquiry by sending a Notice of Inquiry setting out the issues in the appeal to the Police. The Police submitted representations to me in response. I then sent the Police’s representations, in their entirety, together with a Notice of Inquiry to the appellant, who submitted representations in response. I then determined that the Police should be given an opportunity to reply to a specific portion of the appellant’s representations.

## **ISSUE:**

The appellant has requested that I not share this portion of his representations with the Police. The purpose of this interim order is to rule on this request.

## **DISCUSSION:**

### **Sharing of representations procedure**

In the Notice of Inquiry cover letter to the appellant, I stated:

The representations you provide to this office may be shared with the Halton Regional Police, unless there is an overriding confidentiality concern. The procedure for the submitting and sharing of representations is set out in the attached document entitled *Inquiry Procedure at the Adjudication Stage*. Please refer to this document when preparing your representations.

The Inquiry Procedure document states:

*Adjudicator seeks representations from second party*

The Adjudicator will send the same or a modified Notice of Inquiry to the second party, along with a copy of the first party's non-confidential representations, seeking representations from that party.

*Second party submits representations*

This second party then has **three weeks** to submit representations. In its representations, the second party must indicate clearly, and in detail:

- Which information in the representations, if any, the party wishes the Adjudicator to withhold from the other party; and
- Its reasons for this request (see confidentiality criteria below).

The document later sets out the criteria for withholding representations, as follows:

The Adjudicator may withhold information contained in a party's representations where:

- (a) disclosure of the information would reveal the substance of record claimed to be exempt or excluded;
- (b) the information would be exempt if contained in a record subject to the *Freedom of Information and Protection of Privacy Act* or the *Municipal Freedom of Information and Protection of Privacy Act*; or
- (c) the information should not be disclosed to the other party for another reason.

For the purposes of paragraph (c) above, the Adjudicator will apply the following test:

- (i) the party communicated the information to the IPC in confidence that it would not be disclosed to the other party; and
- (ii) confidentiality must be essential to the full and satisfactory maintenance of the relation between the IPC and the party; and

- (iii) the relation must be one which in the opinion of the community ought to be diligently fostered; and
- (iv) the injury to the relation that would result from the disclosure of the information would be greater than the benefit thereby gained for the correct disposal of the litigation.

## **FINDINGS:**

The reason provided by the appellant for his objection to the sharing of a specific portion of his representations was his belief that the process followed by our Office has resulted in problems for him in the past.

At issue are those representations made by the appellant on whether records exist of the information contained in electronic data transmissions.

This material does not appear on its face to fit any of the confidentiality criteria, and the appellant has not provided sufficient grounds why this specific portion of his representations might be considered confidential. In the circumstances, I find that the confidentiality criteria do not apply to this portion of the appellant's representations. As a result, I intend to provide the Police with a copy of the first two sentences in the last paragraph on page 1 and the first two paragraphs on page 2 of the appellant's representations. I will provide this portion of the representations no earlier than **March 6, 2001** for the purpose of seeking reply representations from the Police.

Original signed by: \_\_\_\_\_  
Dawn Maruno  
Adjudicator

\_\_\_\_\_  
February 20, 2001