

Information and Privacy Commissioner,  
Ontario, Canada



Commissaire à l'information et à la protection de la vie privée,  
Ontario, Canada

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## **FINAL ORDER MO-4380-F**

Appeal MA21-00147

Windsor Police Services Board

May 26, 2023

**Summary:** This final order resolves the search issue arising out of Interim Order MO-4350-I. Following the interim order, the Windsor Police Services Board (the police) conducted a further search for a specified statement and provided an affidavit in support of its search. In this order, the adjudicator finds that the police have now provided sufficient evidence to establish that its search efforts were reasonable, and dismisses the appeal.

**Statutes Considered:** *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, section 17.

### **OVERVIEW:**

[1] This final order disposes of the remaining issue arising from Interim Order MO-4350-I – whether the Windsor Police Services Board (the police) conducted a reasonable search for a specified statement responsive to the appellant's request

[2] The appellant's request was for records relating to a specific occurrence number including "... all documents, all reports, all records, all statements, all affidavits, all transcripts, all video and all audio."

[3] The police conducted a further search and submitted an affidavit. The appellant provided representations in response.

[4] In this final order, I find that the police has now conducted a reasonable search and dismiss the appeal.

### **DISCUSSION:**

[5] The only issue left to decide in this appeal is whether the police has now conducted a reasonable search for responsive records.

[6] In Interim Order MO-4350-I, I found that the police's representations lacked details about when the search was conducted, what places were searched, and what types of files were searched in regards to the responsive records and the statement the appellant was seeking. It was also unclear who conducted the search and whether this employee had experience in conducting searches, besides their position with the police and how long they were/are in that position.

[7] After Interim Order MO-4350-I was issued, the police conducted a further search for the statement in question.

[8] The police provided the IPC and the appellant with affidavit evidence detailing its search.

[9] In the affidavit, the affiant states that in October 2021 the IPC mediator forwarded an email from the appellant to the police where the appellant raised the issue of a specific statement.

[10] Subsequently, the affiant reviewed the responsive records for this statement. She states that a digital key word search (using the words together and separately) of the general occurrence records and emails was completed. As well, the affiant states that a second search was completed manually by which all records (including call for service transcript and officer handwritten notes) were visually reviewed (read) to determine if the statement the appellant sought was contained within the police records. She submits that it was not, nor was any variation of the statement located in any of the responsive records.

[11] The affiant states that in April 2023 she conducted a search of the Versatem system, which is the police in house database. She explains that the Versatem system captures all calls for service, including 911 and non-emergency calls, follow-up calls, occurrence reports, and supplement reports. The affiant also explains that this search was conducted by using the appellant's legal name and the other names used by the appellant but no additional responsive records were located.

[12] I have reviewed the police's affidavit, and am now satisfied that the police have provided sufficient evidence that they conducted a reasonable search for the statement in question.

[13] Having reviewed the appellant's representations in response to the police's affidavit evidence, I find that she asserts that the statement in question must exist with the police. She explains that it was read in court and was part of a victim statement. She also asserts that she expected the statement was collected by the police from the victim.

[14] In addition, the appellant stated that she previously made an access request to the Windsor Crown office looking for this statement and was told to make her access request to the police. As such, she feels that she had been sent on a wild

goose chase.

[15] The appellant asserts that she is not satisfied that a reasonable search has been conducted as she requires additional proof to be attached to the police's affidavit. She explains that proof would be a list of search terms used so that she could then inspect it for a reasonable level of completeness.

[16] The *Act* does not require the police to prove with certainty that the statement does not exist in their record holdings. However, the police were required to provide enough evidence to show that they have made a reasonable effort to identify and locate responsive records, in this case the statement in question.<sup>1</sup> I find that they have done so, for the reasons set out above.

[17] While I accept the appellant was told by the Windsor Crown office to make an access request to the police, I find that this does not necessarily mean the police would have a copy of the victim statement in their record holdings. I also do not agree with the appellant's representations that the police must provide a list of search terms before I can make a finding on the reasonableness of the police's search. On the basis of the police's affidavit, I find that the police has conducted a reasonable search, and dismiss the appeal.

**ORDER:**

I uphold the reasonableness of the police's search, and dismiss the appeal.

Original signed by: \_\_\_\_\_  
Lan An  
Adjudicator

\_\_\_\_\_ May 26, 2023

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<sup>1</sup> Orders P-624 and PO-2559.