

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER MO-4582

Appeal MA21-00825

Durham Regional Police Services Board

October 21, 2024

Summary: A person asked for records about the police's attendance at her home. The police provided the person with records in response to the request. The person asserts that additional records exist. In this order, the adjudicator upholds the police's search for records as 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.

Orders Considered: Order MO-4551.

OVERVIEW:

[1] This appeal determines whether the Durham Regional Police Services Board (the police) conducted a reasonable search for records responsive to the appellant's request as required by section 17 of the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*).

[2] Three police officers attended at the appellant's home on a specified date (Officers 1, 2 and 3). The appellant subsequently made a request to the police to obtain documents related to the police's attendance at her home. The police granted the appellant full

access to a responsive record, which consisted of a call for service.¹

[3] The appellant appealed the police's decision to the Information and Privacy Commissioner of Ontario (the IPC). During mediation, the appellant asserted that additional records existed. She specifically indicated that she was looking for information relating to how or by whom the call for service was initiated. In response to the appellant's concerns, the police conducted a search for the notes of Officer 1. No notes or additional responsive records were located.

[4] As the appeal was not resolved at mediation, it was transferred to the adjudication stage of the appeal process. An IPC adjudicator sought and received initial representations from the parties. The appeal was then transferred to me to continue the inquiry. Having reviewed the parties' representations, I sought reply representations from the police. The police did not provide reply representations, but provided a response to the appellant's question about a notation in the call for service. The police also issued a supplemental decision, partially disclosing to the appellant notes of Officers 2 and 3. I shared with the appellant the police's response to her question and the appellant provided further representations about the adequacy of the search. The police were given an opportunity to provide their response to the appellant's additional representations. The police confirmed their reliance on their initial representations. All parties' representations were shared in accordance with the IPC's *Code of Procedure* in effect at the time of the inquiry.

[5] For the reasons that follow, I find that the police conducted a reasonable search for responsive records as required by section 17 of the *Act*.

DISCUSSION:

[6] The appellant believes that additional records exist beyond those identified by the police. Therefore, the issue in this appeal is whether the police conducted a reasonable search for records as required by section 17 of the *Act*.²

[7] A reasonable search is one in which an experienced employee knowledgeable in the subject matter of the request makes a reasonable effort to locate records that are reasonably related to the request.³ The *Act* does not require the institution to prove with certainty that further records do not exist. However, the institution must provide enough evidence to show that it has made a reasonable effort to identify and locate responsive

¹ In her access request, the appellant sought access to records related to two separate occurrences. The police's access decision dealt with records related to both occurrences. During mediation, the appellant narrowed the appeal to the issue of reasonable search only with respect to one of the two occurrences. For that reason, the order only addresses facts relevant to the occurrence at issue.

² Orders P-85, P-221 and PO-1954-I.

³ Orders M-909, PO-2469 and PO-2592.

records;⁴ that is, records that are "reasonably related" to the request.⁵

[8] Although a requester will rarely be in a position to indicate precisely which records the institution has not identified, they still must provide a reasonable basis for concluding that such records exist.⁶

Police's representations

[9] The police submit that the search was conducted by an experienced employee. The police say that the employee had been fully trained and was very knowledgeable in all of the police's records management systems and in the roles of various units within the police. Further, the police say that the employee conducted the search using police's procedures for responding to access requests under the *Act*.

[10] The police also submit that the employee conducted a reasonable search. The police say that based on the subject matter of the request and the date of the occurrence, the employee searched the records in police's records management system by inputting the appellant's home address. As a result of the search, the employee found a call for service record.

[11] In addition to conducting the search in their records management system, the police contacted Officer 1 to ask for their notes related to the occurrence. Officer 1 informed the police that no notes existed.

[12] Finally, the police say that no occurrence report was created as a result of the occurrence.

Appellant's representations

[13] The appellant submits that the police have not identified all responsive records. The appellant points to several gaps in the police's search for responsive records. First, the appellant submits that the police's search was too narrow. The appellant says that the police ought to have contacted all three police officers who attended at her home to request their notes. Second, the appellant submits that the police ought to have contacted the police officer who, according to the call for service, identified the need to attend at the appellant's home. Third, the appellant submits that the police ought to have considered that the call for service was received "on view generated," which, the appellant speculates, means that someone provided information to the police that triggered the police's decision to attend at her home. The appellant says that Officers 2 and 3 informed her that the decision to attend at her home was a result of an anonymous call. In her representations, the appellant speculates who that anonymous caller is.

⁴ Orders P-624 and PO-2559.

⁵ Order PO-2554.

⁶ Order MO-2246.

[14] The appellant also submits that the police officers failed to maintain accurate, detailed and comprehensive notes. The appellant says that given that three police officers attended at her home, it is not probable that there are no notes related to the police officers' interaction with her.

[15] Ultimately, the appellant is seeking records that contain information that was the basis for the police's decision to attend at her home.

Police's supplemental decision and explanation of "on view generated"

[16] The police did not provide reply representations, but issued a supplemental decision, partially disclosing to the appellant notes of Officers 2 and 3 that were located after further searches were undertaken.

[17] The police also explained that "on view generated" meant, in the context of the appellant's circumstances, that the call for service was made by Officer 1 (as opposed to coming through 911 call centre).

Appellant's further representations

[18] The appellant submits that she is seeking records that contain information about the source of the call that triggered the police's attendance at her home. The appellant says that the notes of Officers 2 and 3 do not contain such information.

[19] The appellant says that the call for service includes two related calls. The first call was taken by a dispatcher. The appellant says that aside from the notation "on view generated," the record of the call does not provide information about the source of the call (i.e., a phone call, information from another employee). The appellant argues that if an anonymous caller made the call to the dispatcher, the police's phone records would have the phone number of the caller.

[20] The second call was taken by a police officer. Since the call also notes that it was received "on view generated," the appellant is seeking notes of the police officer who received the call.

Analysis and finding

[21] I find that the police's search for responsive records was in accordance with section 17 of the *Act*.

[22] The police provided sufficient evidence to establish that the employee who conducted the search for responsive records was experienced and knowledgeable in the subject matter of the request. The appellant does not dispute this.

[23] The police have also established, in my view, that they made reasonable efforts to locate records responsive to the appellant's request. It was reasonable for the police to

search in their records management system using the appellant's home address as a search term. The police also contacted relevant individuals during their searches.

[24] The appellant appears to misunderstand who one of the police officers is. Based on the review of the call for service and police's representations, I find that Officer 1 is the police officer who logged in one of the calls in the call for service, made the decision to attend at the appellant's home, made the call to a dispatcher to request that more police officers attend at the appellant's home, and was one of the three police officers who attended at the appellant's home. The police did not provide the appellant with the notes of Officer 1 because none exist. The police provided the appellant with notes of Officers 2 and 3.

[25] I do not find that the appellant provided a reasonable basis for concluding that additional records exist. The appellant seeks to find out what information was provided to the police and by whom that resulted in the police's attendance at her home. Since such information does not appear in the records received by the appellant, she asserts that the records are not complete. Section 17 of the *Act* only requires that an institution make reasonable efforts to identify and locate responsive records. It does not require an institution to respond to appellant's questions⁷ or provide an appellant with information beyond providing responsive records. Further, it is outside of the IPC's jurisdiction to determine whether responsive records meet police's records management practices.

[26] The appellant says that the police's phone records could contain responsive information, namely a phone number of an individual who made the call to the police that resulted in the creation of the call for service. The appellant's belief that someone called the police with information about her is based on a statement made to her by Officers 2 and 3 about an anonymous caller. The police say that Officer 1 generated the call for service. Based on the review of the call for service, I accept the police's representations and find that Officer 1 called the dispatcher requesting to dispatch more police officers to the appellant's home and logged in the other call. Further, based on the police's searches to date and the results of those searches, I am not persuaded that further searches anywhere, including police's phone records, would yield responsive records.

ORDER:

I uphold the police's search as reasonable and dismiss the appeal.

Original Signed by: _____
Anna Kalinichenko
Adjudicator

October 21, 2024 _____

⁷ Order MO-4551.