



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

ORDER P-459

Appeal P-9300035

Ministry of Transportation



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ORDER

The Ministry of Transportation (the Ministry) received a request under the Freedom of Information and Protection of Privacy Act (the Act), for access to a record identified as a letter of reprimand regarding the requester, which was referred to in an investigation report prepared by a senior investigation officer with the Ministry. The requester attached an excerpt from the investigation report to his access request. The Ministry advised the requester that the requested record does not exist nor has it ever existed within the custody or control of the Ministry. The Ministry also amended the investigation report by removing the reference to a letter of reprimand. The requester appealed the Ministry's decision, as he believes the record does exist within the custody or control of the Ministry.

Mediation was not successful, and notice that an inquiry was being conducted to review the Ministry's decision was sent to the appellant and the Ministry. Written representations were received from both parties.

In his representations, the appellant raises an additional issue, related to the Ministry's obligation to ensure his privacy and to maintain confidentiality of his personal information. Specifically, the appellant is concerned about correspondence sent to him by the Ministry going amiss in the mail. I have referred this issue to the Compliance department of this office, for consideration by a Compliance Investigator.

The sole issue to be determined in this appeal is whether the Ministry's search for the requested record was reasonable in the circumstances.

The appellant claims that the record must exist by reason of the reference to it in the investigation report.

In its representations, the Ministry states that the record requested does not exist nor has it ever existed within the custody or control of the Ministry. The Ministry has provided an affidavit from the senior enforcement investigator who conducted the investigation and prepared the report which contained the reference to the requested record. The investigator attests that he was personally responsible for and directly involved in the investigations being conducted jointly by the Carrier Control Office and the Ottawa District Office of the Ministry, at the premises of O. C. Transpo in Ottawa. The investigator further attests that while reference to the requested record was made by a representative of O. C. Transpo, the requested record was never obtained as it was not material to the matter under investigation. Finally, the investigator states that he has personally conducted a search of the Ministry investigation file relevant to O. C. Transpo and that the requested record was not located.

Having carefully reviewed the representations of both parties, and the affidavit submitted to me, I am satisfied that the search conducted by the Ministry for the requested record was reasonable in the circumstances.

Original signed by:
Holly Big Canoe
Inquiry Officer

May 14, 1993