



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

ORDER P-739

Appeal P_9300495

Ministry of the Solicitor General and Correctional Services



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NATURE OF THE APPEAL:

This is an appeal under the Freedom of Information and Protection of Privacy Act (the Act). The Ministry of the Solicitor General and Correctional Services (the Ministry) received a request for access to the requester's employment information and specific Ministry employment-related policies and procedures. Access was granted to numerous records. The Ministry indicated that certain other records could not be provided as they did not exist.

The appellant claims that the following two records should exist:

- (1) a Performance, Planning and Review (PPR) for the period of her employment at a named Ontario correctional facility and
- (2) an Employee Separation/Work Performance Record for the same period as in (1) above.

The sole issue in this appeal is whether the Ministry has conducted a reasonable search for these records.

A Notice of Inquiry was sent to the Ministry and the appellant. Representations were received from the Ministry. The appellant requested that all of her earlier communications on file with the Commissioner's office be accepted as her representations.

DISCUSSION:

REASONABLENESS OF SEARCH

Where a requester provides sufficient details about the records to which she is seeking access and the Ministry indicates that the records do not exist, it is my responsibility to ensure that the Ministry has made a reasonable search to identify the records which are responsive to the request. While the Act does not require the Ministry to prove to the degree of absolute certainty that such records do not exist, the search which the Ministry undertakes must be conducted by knowledgeable staff in locations where the records in question might reasonably be located.

In its representations, the Ministry describes the steps taken to locate records responsive to the appellant's request. The Ministry has included sworn affidavits of three of its employees who were personally involved in searching for the records. The first affidavit indicates that the appellant's corporate personnel file was searched and no responsive records were located. The second affidavit states that old staff files, staff training files and the files of the appellant's direct supervisor were searched but no responsive records were found. This affidavit also indicates that these are the only areas where the records or copies of same could reasonably be located at various times. It further states that because the appellant transferred to another facility, her file was forwarded without a separation form being prepared. The third affidavit states that all files relating to the appellant were searched at a specific location and no responsive records were located.

I have carefully reviewed the representations of the parties and the affidavits of the Ministry. I am satisfied that the Ministry has taken all reasonable steps to locate the records responsive to the appellant's request.

ORDER:

I uphold the Ministry's decision.

Original signed by: _____
Mumtaz Jiwan
Inquiry Officer

_____ August 16, 1994