



Information and Privacy  
Commissioner/Ontario

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

# ORDER P-986

Appeal P-9500257

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 a copy of the Organizational Review Report for the Niagara Region Sexual Assault Centre (CARSA) which was prepared by an independent consultant in the fall of 1993. The Ministry replied that it does not have a copy of the requested record. It explained that because CARSA did not accept the finalized report, the Ministry did not require that a copy be provided to it.

The requester appealed this decision, arguing that as the report was commissioned by CARSA at the request of the Ministry, who also contributed towards its cost, it is likely that a copy would have been obtained by the Ministry.

The sole issue in this appeal is whether the Ministry's search for responsive records was reasonable in the circumstances.

A Notice of Inquiry was provided to the Ministry and the appellant. Representations were received from both parties.

## DISCUSSION:

### REASONABLENESS OF SEARCH

The Ministry has provided an affidavit from the Manager of Community Programs in which she states that she directed a Grants Officer with the Community Initiatives Unit to undertake a search of the appropriate files for the responsive record. The Manager states that the Grants Officer was unable to locate the requested record. I have not been provided with any details as to the nature and extent of the search or the qualifications of the Grants Officer for undertaking a search for this particular record.

The appellant submits that she was advised by a senior staff person at the Ministry's Strategic Policy and Planning Division that the Ministry had in fact received a copy of the report. The appellant points out that the Ministry provides the majority of the funding which operates CARSA. In her view, it is only reasonable to expect that the Ministry would have requested a copy of the report, particularly in light of the fact that CARSA ultimately did not accept the report as written.

Where a requester provides sufficient details about the records which she is seeking and the Ministry indicates that further records do not exist, it is my responsibility to ensure that the Ministry has made a reasonable search to identify any records which are responsive to the request. The Act does not require the Ministry to prove with absolute certainty that further records do not exist. However, in my view, in order to properly discharge its obligations under the Act, the Ministry must provide me with sufficient evidence to show that it has made a **reasonable** effort to identify and locate records responsive to the request.

In the circumstances of this appeal, I am not satisfied that the efforts made by the Ministry to locate the

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responsive record have been reasonable. I have not been provided with any evidence to indicate the nature and extent of the search which may have been undertaken or the results of that search. Nor have I been provided with any evidence as to the qualifications of the person who undertook the search on behalf of the Ministry. Accordingly, I will order the Ministry to conduct a further search by an individual who is familiar with records of this sort. The search for the requested record is to be undertaken in the program areas identified by the appellant.

**ORDER:**

1. I order the Ministry to conduct a search of the files held by its Community Initiatives Unit and the Strategic Policy and Planning Division and to advise the appellant in writing of the results of this search within thirty (30) days of the date of this order.
2. In the event that the requested record is located as a result of the search referred to in Provision 1, I order the Ministry to render to the appellant a final decision on access to the record in accordance with the provisions of sections 26 and 29 of the Act, treating the date of this order as the date of the request and without recourse to a time extension under section 27.
3. I order the Ministry to provide me with a copy of the correspondence referred to in Provisions 1 and 2 (if applicable) within thirty-five (35) days of the date of this order. This should be forwarded to my attention, c/o Information and Privacy Commissioner/Ontario, 80 Bloor Street West, Toronto, Ontario M5S 2V1.

Original signed by: \_\_\_\_\_  
Donald Hale  
Inquiry Officer

\_\_\_\_\_ August 29, 1995