



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

# **ORDER P-1041**

## **Appeal P-9500373**

### **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 all correspondence from the London Regional Office pertaining to any investigations conducted by that office regarding a named Community Resource Centre (the CRC). In addition, the requester sought a copy of the financial audit of the CRC which was performed after August 8, 1994.

The Ministry located records responsive to the request and granted partial access to them. Access was denied to the remaining records on the basis of the exemptions in sections 21(1) and 49(b) of the Act (invasion of privacy).

The requester (now the appellant) appealed the Ministry's decision on the basis that more records should exist. During mediation, the appellant provided an example of records which should exist in the Ministry's files. She refers specifically to a letter, dated sometime in June, 1994, from the Regional Program Co-ordinator, Institutions, Western Region, Correctional Services Division (the program co-ordinator) to the CRC's Board of Directors. This information was communicated to the Ministry and a second search was undertaken by the Western Regional Office, but no records were located other than those which had already been provided to the Ministry's Freedom of Information Unit. The appellant remains unconvinced that all records have been located.

A Notice of Inquiry was provided to the Ministry and the appellant. Representations were received from the Ministry only. Along with its representations, the Ministry has provided the sworn affidavit of the program co-ordinator.

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

## **DISCUSSION:**

### **REASONABLENESS OF SEARCH**

Where a requester provides sufficient details about the records which he or she is seeking and the Ministry indicates that additional records do not exist, it is my responsibility to ensure that the Ministry has made a reasonable search to identify responsive records. While the Act does not require that the Ministry 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 states that upon receipt of the request, the appellant was contacted for clarification. She indicated that she was specifically seeking access to specific types of records which she believed contained her personal information. Following its initial search, the Ministry contacted the appellant on two separate occasions to determine whether the records which it had located were responsive to the request and/or whether they were required by the appellant. The Ministry provides a list of those records which the appellant agreed were not responsive or which were not required by her.

During one of these conversations, the appellant clarified that she was interested in information pertaining to her performance as an employee rather than that which related to operational issues, unless records pertaining to operational issues also related to her performance. The Ministry indicates that it excluded the draft audit from the scope of the request as it does not contain the appellant's personal information.

Following receipt of the Notice of Inquiry, the Ministry conducted a third search for records responsive to the request. In her affidavit, the program co-ordinator describes her knowledge of the records pertaining to the CRC and the steps taken to search for responsive records. She also affirms that the only correspondence between herself and the CRC pertaining to the matter concerning the appellant is dated August 9, 1994. This letter was included in the list of documents which the appellant agreed were not required by her.

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

**ORDER:**

I uphold the Ministry's decision.

Original signed by: \_\_\_\_\_

Laurel Cropley  
Inquiry Officer

\_\_\_\_\_  
November 3, 1995