



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

# ORDER P-1367

Appeal P\_9600416

Ministry of the Attorney General



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## **NATURE OF THE APPEAL:**

In March, 1996, the appellant requested information from the Ministry of the Attorney General (the Ministry) under the Freedom of Information and Protection of Privacy Act (the Act). This information relates to the contents of two complaint files in the office of the Police Complaints Commissioner (the PCC). These files pertain to complaints made by the appellant against named officers of the Barrie Police Service (the Police) and the Orillia detachment of the Ontario Provincial Police (the OPP).

The Ministry located records responsive to this request and provided the appellant with a decision regarding them. The appellant appealed the Ministry's decision and Appeal Number P\_9600205 was opened. I disposed of the issues in that appeal in Order P-1250, dated August 28, 1996.

Following receipt of the records in response to the request referred to above, the appellant was of the belief that more records should exist. He, therefore, submitted another request to the Ministry for the following records:

- (1) a final report that should have been sent to the PCC from the OPP in accordance with section 87(6) of the Police Services Act (the PSA);
- (2) memoranda, reports and other documents prepared by the PCC investigators who were assigned to review the complaints;
- (3) the "final report" that was referred to in Document 12 (a letter from the Police to the PCC, which the appellant received from the Ministry in response to his previous access request);
- (4) any interim reports that were sent to the PCC from the Police; and
- (5) all documents, memoranda and reports regarding a meeting between the PCC Commissioner, a PCC investigator and the Police. The appellant indicates that this meeting was also referred to in Document 12 (above).

The Ministry responded to the appellant in letters dated November 6 and 12, 1996, and advised that no records exist. In particular, the Ministry indicated that no final reports were issued (items 1 and 3), that no records exist with respect to items 2 and 5, and that a search through the PCC files did not locate any interim reports (item 4).

The appellant appealed this decision. In his letter of appeal, the appellant stated that he believes that the PCC has a file that he has not been given access to. He does not understand why there are no documents of a PCC review of his complaints. He also believes that a particular document (a Form 2) was sent to the OPP from the PCC, a copy of which was not sent to him.

A Notice of Inquiry was sent to the Ministry and the appellant. Representations were received from both parties. The Ministry's representations contain an affidavit sworn by a law clerk in

the office of the PCC. The sole issue in this appeal is whether the Ministry's search for records responsive to the request was reasonable.

## **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 his representations, the appellant refers to four file numbers. There is no dispute regarding one of the file numbers. He notes the discrepancy between two of the file numbers and refers to the Ministry's explanation that this is the result of a numbering error. Finally, he asserts that a third PCC file exists. He reiterates that more records should exist with respect to all of these files.

Because the requests submitted by the appellant are interconnected, the law clerk's affidavit describes the steps taken with respect to all of the searches that were conducted in regards to the information requested by the appellant.

In her affidavit, the law clerk states that only two files exist regarding the appellant's complaints. With respect to the discrepancy between two of the file numbers referred to by the appellant, she explains that the confusion is a result of the transposition of two numbers. She indicates further that the appellant believes that a third file exists because this number was quoted on the "Re:" line of a letter which was sent to him. Following consultation with the Regional Senior Investigator (the RSI), she confirmed that the number quoted on the letter was a mistake and that no such file exists.

The law clerk goes on to describe the steps taken to search for and locate records responsive to the appellant's current request, as well as to two previous related requests. She states that when the appellant's initial request was made, she searched the PCC's head office's main card index filing system and located two index cards. She then contacted the RSI at the PCC's Central Region, which is the office which handles complaints against police officers of the two areas identified by the appellant.

A secretary at the Central Region searched the Central Region's card index filing system for all files relating to the appellant and located two files. These files were forwarded to the law clerk and the decision which lead to Appeal Number P-9600205 was issued.

The law clerk indicates that the appellant made a second request which related to his initial request. As a result, the law clerk again contacted the Central Region regarding the existence of the third file referred to by the appellant. She also inquired about additional records which might have been made by the RSI or another investigator (the investigator) in the Central Region, and

in particular, notes taken at a meeting between the two investigators and the appellant. The RSI confirmed that the third file did not exist and that no documents exist that relate to the appellant other than those which had already been identified. The RSI also confirmed that no notes were taken by him or the other investigator at their meeting with the appellant.

Upon receipt of the appellant's third request (the subject of the current appeal), the law clerk again reviewed the files and contacted the RSI and the investigator. She confirms that no additional files or records exist.

The law clerk states that she was advised that the appellant's complaints were dealt with under section 85 of the PSA, which allows a chief of police to decide that a complaint shall not be dealt with further if he or she is of the opinion that the complaint is frivolous or vexatious or was made in bad faith. As a result, there was no further investigation of the appellant's complaints and no interim or final reports were generated.

I have considered the representations of the parties, and in particular the affidavit of the law clerk. I am satisfied that, as a result of the steps taken by the Ministry, collectively, in responding to the appellant's three requests, the Ministry's search for records responsive to the current request was reasonable.

**ORDER:**

The Ministry's search for responsive records was reasonable and the appeal is dismissed.

Original signed by: \_\_\_\_\_  
Laurel Cropley  
Inquiry Officer

\_\_\_\_\_ March 13, 1997