



**Information and Privacy
Commissioner/Ontario**

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

ORDER PO-1991

Appeal PA-010113-1

Ministry of the Solicitor General



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NATURE OF THE APPEAL:

This is an appeal from a decision of the Ministry of the Solicitor General (the Ministry), under the *Freedom of Information and Protection of Privacy Act* (the *Act*). The requester (now the appellant) sought access to his personal information from the Ministry. As the Ministry understood the request to relate to Ontario Provincial Police (OPP) records, the Ministry contacted the appellant to clarify what OPP records were at issue. The appellant indicated that the Toronto and Peterborough County Detachments might have records responsive to his request.

In its decision letter, the Ministry advised the appellant that no responsive OPP records were located, and as a result, it is the view of the Ministry that no responsive OPP records exist.

After this appeal was filed, the appellant provided this office with two written statements from an individual. In these statements, the individual states that she was with the appellant at the Consulate Generale D'Italia and the Consulate General of Korea. At both offices, employees of the consulates advised the appellant that their computer records showed the appellant as having a criminal record. In both cases, the appellant and the witness were shown the computer screens by the employees of the consulates.

It appears that the appellant has received a copy of his criminal record from the Toronto Police Service.

I sent a Notice of Inquiry to the Ministry initially, inviting its representations on the facts and issues in this appeal. A copy of these representations, with certain information severed for confidentiality reasons, was provided to the appellant for his response. I have also accordingly received representations from the appellant.

The only issue in this appeal is the reasonableness of the Ministry's search for responsive records.

REASONABLE SEARCH

In appeals involving a claim that further responsive records exist, as is the case in this appeal, the issue to be decided is whether the Ministry has conducted a reasonable search for the records as required by section 24 of the *Act*. The *Act* does not require the Ministry to prove with absolute certainty that further records do not exist. In order to properly discharge its obligations under the *Act*, the Ministry must establish, however, that it has made a **reasonable** effort to identify and locate records responsive to the request.

The Ministry submitted representations along with two affidavits in support of its position. It states that after receipt of the request, it wrote to the appellant asking for clarification. The appellant was asked to provide details of any past involvement with the OPP, including the names of any OPP detachments, the dates he was in contact with the OPP and the names of involved officers. Subsequently, in a telephone conversation with a Ministry representative, the appellant advised that he had previous involvement with the Toronto Police Service and reiterated that he wished to have access to his criminal record. The appellant was encouraged to

contact the RCMP, which manages the Central Repository of criminal records information files, or the Toronto Police Service.

In a further telephone conversation, the appellant indicated that he thought the Toronto and Peterborough County OPP Detachments might have responsive records about him, but was unable to supply any specific or approximate dates of contact, names of OPP officers or any other details.

The Toronto and Peterborough County OPP Detachments were asked to undertake a search for responsive records relating to the appellant. The affidavits describe those searches. The affidavit sworn by an employee of the Peterborough detachment describes her searches of three records systems, the Ontario Municipal and Provincial Police Automation Co-operative (OMPPAC), the NICHE Records Management System (RMS) and the Canadian Police Information Centre (CPIC). The search failed to reveal any responsive records held at that detachment. The Ministry also filed an affidavit by an employee of the OPP in Toronto who undertook a search for any responsive records in the custody and control of the Toronto detachment. This individual searched the detachment's record books from 1990 to 2001, RMS, NICHE and OMPPAC, and also found no responsive records.

In response to this information, the appellant sent me copies of Bell Canada invoices which he states are evidence of communications between the OPP and him. He has marked certain phone calls made in 1994 to a Peterborough phone number, which he states is the phone number of the Peterborough OPP. He states in his representations that "[a]s you may note it is not true that the OPP did not have any contact with me. I believe OPP is responsible for all my sufferings."

After reviewing the material before me, I am satisfied that the Ministry has conducted a reasonable search for records responsive to this request. It is evident that it went to some lengths to contact the appellant in order to obtain more information which would assist in locating any responsive records. With the information available to it, which was limited in detail, the Ministry conducted a search of the relevant records systems.

It may well be that the appellant called the Peterborough detachment of the OPP on several occasions in 1994. However, not every contact with a police service results in the creation of records, and without more information, I am not convinced that these telephone invoices cast doubt on the reasonableness of the Ministry's searches for records.

It appears that the appellant is particularly interested in any information about him in the Canadian Police Information Centre database (CPIC), as he has referred to having seen a computer screen showing his criminal record. CPIC is an electronic central database into which police jurisdictions across Canada may enter information and have access to information entered by other jurisdictions. It appears that embassies also have access to information in CPIC. CPIC records have been ordered disclosed in prior cases where they have been printed out and located in files relevant to a request (see, for instance, Order MO-1288), but no CPIC printouts were located in the Ministry's searches in this case.

This is not surprising for it is clear that, whatever information there is in the CPIC about the appellant, the OPP is not the source of this information. As indicated, the appellant has had involvement with the Toronto Police Service. Further, he did, on the advice of the Ministry, contact the Toronto Police Service, and was provided with a copy of his criminal record. Since the appellant has a criminal record with the Toronto Police Service, it is reasonable to conclude that the Toronto Police Service and not the OPP is the source of the information about the appellant on the CPIC, and is the agency to which the appellant should direct any further questions about this matter.

In all the circumstances, I find that the Ministry has made a reasonable search for records responsive to this request, and I accordingly dismiss the appeal.

Original signed by: _____
Sherry Liang
Adjudicator

February 7, 2002 _____