



**Information and Privacy  
Commissioner/Ontario**

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

# **ORDER P-618**

**Appeal P-9300389**

**Sheridan College of Applied Arts and Technology**



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## INTERIM ORDER

On January 4, 1994, the undersigned was appointed Inquiry Officer and received a delegation of the power and duty to conduct inquiries and make orders under the provincial Freedom of Information and Protection of Privacy Act and the Municipal Freedom of Information and Protection of Privacy Act.

Sheridan College of Applied Arts and Technology (the College) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for access to a security guard's report for dates corresponding to two specific events at the Skills Training Centre, and to a list of dates on which the appellant's personal file was accessed.

In response to the first part of the request, the College provided a copy of the security guard's report for May 7, 1993, and indicated that there is no report for June 14, 1993. With respect to the second part of the request, the College indicated that the Skills Development Division does not keep a list that would track the dates an individual's file is accessed. The requester appealed the College's decision.

During mediation, the appellant confirmed that he was seeking a copy of the security guard's report for May 14, 1993, rather than June 14, 1993. The College later advised that the insertion of the June 14, 1993 date in the decision letter was a typographical error, and that a subsequent search confirmed that no report exists for May 14, 1993.

Further mediation was not successful and notice that an inquiry was being conducted to review the College's decision was sent to the College and to the appellant. Representations were received from both the College and the appellant.

The sole issue to be decided in this inquiry is whether the College has conducted a reasonable search for responsive records.

In the Notice of Inquiry, the College was asked to respond to specific questions relating to the steps taken to search for records responsive to the request and to submit an affidavit sworn by the employee of the College who conducted the search.

In its representations, the College provided an affidavit from the Freedom of Information and Protection of Privacy Co-ordinator. In her affidavit, the Co-ordinator indicates that security for Sheridan College is contracted out and that any reports that are generated would be sent to the Security Services Officer at the Trafalgar Road Campus of the College.

She further indicates that she contacted the Corporate Security Services Officer for Sheridan College who provided a copy of the report for May 7, 1993, and also advised that no report existed for May 14, 1993.

Following initiation of the appeal, the Co-ordinator contacted the Corporate Security Services Officer again and submits that as a result of that contact:

I am informed by the Corporate Security Services Officer of Sheridan College and verily believe that a diligent search has been conducted of the college's records and that no security report exists for May 14, 1993.

The Co-ordinator adds that as a result of the security company's general inefficiency, the College has since hired a new security company with established procedures for providing daily security reports.

With respect to the second part of the request, the Co-ordinator indicates in her affidavit that she contacted the Secretary of the Faculty of Skills Development in Brampton and was advised that it is not the practice of Sheridan College to keep a list to track the dates on which an individual's file is accessed.

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

The College has not identified in its representations the specific steps taken to search for responsive records, the nature of the search or the types of files searched. I have not been provided with any information regarding the identity of the officials or employees who conducted the actual search, the experience of the employees or their familiarity with the subject matter of the request. No direct evidence from the persons who conducted the searches was provided to me.

In my view, the College has not provided me with sufficient evidence to enable me to conclude that, in the circumstances of this appeal, it has discharged its statutory responsibility to conduct a reasonable search for records responsive to the request.

Accordingly, I require the College to conduct a further search for responsive records and to provide me with detailed affidavits sworn by the officials or employees of the College who have knowledge of and understand the subject matter of the request. The information to be included in these affidavits is outlined in the provisions of my order.

After receiving the affidavits, I will determine whether the College has conducted a reasonable search for the responsive records.

**ORDER:**

1. I order the College to conduct a further search for responsive records and to provide me with detailed affidavits sworn by officials or employees of the College who have knowledge of and understand the subject matter of the request, within fifteen (15) days of the date of this Interim Order. At a minimum, the affidavits must contain the following:
  - (a) Information about the official or employee swearing the affidavit describing his or her qualifications and responsibilities;
  - (b) A statement describing the official's or employee's knowledge and understanding of the subject matter of the request;
  - (c) The date(s) the person conducted the search and the names and positions of any individuals who were consulted by the person, if any; and
  - (d) The type of files searched, the nature and location of the search.
  
2. The affidavits should be forwarded to my attention, c/o Information and Privacy Commissioner/Ontario, 80 Bloor Street West, Suite 1700, Toronto, Ontario, M5S 2V1.

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

February 2, 1994 \_\_\_\_\_ Laurel