



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

# **ORDER P-645**

**Appeal P-9300400**

**Ministry of the Attorney General**



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## ORDER

The Ministry of the Attorney General (the Ministry) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for access to all records pertaining to the requester's court case. The Ministry located a number of responsive records, to which it granted partial access. The requester appealed the Ministry's decision, and expressed the view that additional records responsive to the request should exist.

During mediation, the scope of the appeal was narrowed such that the only issue to be addressed is whether the search undertaken by the Ministry for records responsive to the request was reasonable in the circumstances.

As a mediated settlement was not effected, notice that an inquiry was being conducted to review the decision of the Ministry was sent to the appellant and the Ministry. Representations were received from both parties.

The appellant has expressed the belief that one of the records disclosed to him appears to have had some information removed from it, as there is a large blank area at the top of the page and a handwritten word near the top of the page was partially cut off.

Upon being informed of the appellant's concern, the Ministry indicated it attempted to obtain the original record, but was unable to locate it as it had been sent to the appellant's counsel during the court proceedings. The appellant was not satisfied with this explanation, and believes the record was not sent to his counsel.

The Ministry has provided me with correspondence from the Ministry employees who conducted the searches for the record. One of the employees, the Office Manager of the Crown Attorney's Office for Peel, indicates that, subsequent to being informed of the appellant's concern regarding the copy of the record disclosed to him, the record from which the copy was produced was reviewed. The Office Manager indicates that the handwritten word was similarly cut off on the Ministry's copy. The word appeared to be "Defence". The Office Manager indicates that it is common practise in their office to write "Defence" on a document to signify to the person preparing the disclosure material for a court proceeding that the document was to be included as part of the disclosure. The Office Manager indicates that the record is the second page of the Crown Brief and, therefore, would have been disclosed to the appellant's counsel. The Office Manager also indicates that the Ministry's copy of the record is on "letter-size" paper, while the copy sent to the appellant is on "legal-size" paper. The longer paper would show a large blank area at the top of the page.

Where a requester provides sufficient details about the records that he or she is seeking and the Ministry indicates that the records do not exist, it is my responsibility to ensure that the Ministry has made a reasonable effort to identify records which are responsive to the request. In my view, the Act does not require that a Ministry prove to the degree of absolute certainty that the requested records do not exist.

I have carefully reviewed the representations of the Ministry. I am satisfied that the Ministry has taken all reasonable steps to locate the records which would be responsive to the appellant's request and I find that the search was reasonable in the circumstances of this appeal.

Original signed by: \_\_\_\_\_  
Holly Big Canoe  
Inquiry Officer

\_\_\_\_\_  
March 18, 1994