



Information and Privacy
Commissioner/Ontario

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

ORDER P-815

Appeal P-9400380

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 appellant, who is an inmate in a detention centre, asked the Ministry of the Solicitor General and Correctional Services (the Ministry) for a copy of his inmate file. The Ministry decided to grant access to the file with certain minor exceptions and the appellant did not challenge this aspect of the Ministry's decision. The appellant contends, however, that the Ministry ought to have located additional records which are responsive to his request and has appealed this matter to the Commissioner's office.

During the mediation stage of the appeal, the Ministry was able to locate an "Offender Management Unit Notification Card" as well as a series of drawings sketched by the appellant. These records were, in turn, disclosed to him. The appellant continues to believe, however, that further records should exist which relate directly to his request. A Notice of Inquiry respecting this issue was provided to the Ministry and the appellant. Representations were received from both parties.

DISCUSSION:

REASONABLENESS OF SEARCH

The issue which I must determine in this appeal is whether the Ministry's search for the responsive records was reasonable in the circumstances of this appeal.

In his representations, the appellant submits that there are two records in the Ministry's possession that should have been provided to him. These are (1) several pages of information attached to his Offender Management Unit Notification Card which the appellant indicates were carried about by various Correctional Officers and (2) a statement of complaint which he made in 1993 regarding a named Correctional Officer.

In its representations, the Ministry describes the steps which its staff took to search for responsive records. The Ministry indicates that its employees carefully reviewed the records holdings of the centre where the appellant was detained during the relevant period of time as well as a second detention centre where he was temporarily transferred. The Ministry further notes that these searches were undertaken on two separate occasions and that almost 200 pages of documentation were located and disclosed to the appellant.

The Ministry then indicates that, apart from the records located during its initial search and the two additional documents retrieved during the mediation stage of the appeal, it was unable to locate any further records that were responsive to his request.

The Ministry goes on to state that the Unit Notification Card to which the appellant refers may either be an identification card or a series of log sheets. The Ministry notes, however, that Correctional Officers do not carry identification cards around the facility and that the log sheets pertaining to the appellant have already been released to him.

With respect to the statement of complaint, the Ministry submits that it has disclosed to the appellant all of the records which it has been able to locate which the appellant either addressed to the Superintendent of the facility or to Correctional Officers.

Where an appellant provides sufficient details about the records which he is seeking and a Ministry indicates that such documents do not exist, my responsibility is to ensure that the Ministry has made a reasonable search to identify the records which are responsive to the request. While the Act does not require that the Ministry prove with absolute certainty that the requested records do not exist, it must provide sufficient evidence to show that it has made a reasonable effort to identify and locate records that are responsive to the request.

I have carefully reviewed the representations provided by the appellant and the Ministry. I have concluded that the Ministry's search for responsive records was reasonable in the circumstances of this appeal.

ORDER:

I uphold the Ministry's decision.

Original signed by: _____
Irwin Glasberg
Assistant Commissioner

_____ December 9, 1994