



Information and Privacy  
Commissioner/Ontario

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

# **ORDER P-887**

Appeal P-9400400

Ministry of Community and Social 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 Ministry of Community and Social Services (the Ministry) received a request for copies of personal notes taken by four Ministry employees following a meeting held on August 18, 1993 which resulted in disciplinary action being taken against the requester by the Ministry. The Ministry denied access to the personal notes, relying on the following exemption contained in the Act:

- invasion of privacy - section 21.

The requester appealed the Ministry's decision to deny access. During the mediation stage of the appeal, the Ministry advised the Commissioner's office that the sole existing record which is responsive to the request is a three-page compilation of the personal notes of three of the individuals present at the August 18, 1993 meeting. The Ministry further advised that the original notes created by the four individuals had been destroyed.

A Notice of Inquiry was sent to the appellant, the Ministry and each of the four individuals who had prepared the notes which are the subject of the appeal. Representations were received from all of the parties. During the Inquiry stage of the appeal, the Ministry disclosed to the appellant the three-page compilation described above.

## **DISCUSSION:**

### **REASONABLENESS OF SEARCH**

The sole issue to be determined in this appeal is whether the Ministry's search for responsive records was reasonable in the circumstances.

The Act does not require the Ministry to prove with absolute certainty that the requested records do not exist. However, in my view, in order to properly discharge its obligations under the Act the Ministry must provide me with sufficient evidence which shows that it has made a **reasonable** effort to identify and locate records responsive to the request.

With its representations, the Ministry has included an affidavit from the Administrator of the Rideau Regional Centre in which she describes the steps taken to locate the personal notes taken by the four individuals involved in the August 18, 1993 meeting. The Administrator indicates that on two occasions, each of the four individuals were asked to provide copies of their notes to the Ministry. Their response on both occasions, as verified in writing by each of them in their representations in this appeal, was that their personal notes of the August 18, 1993 meeting had been destroyed and that the only remaining record responsive to the request is the three-page compilation which has now been provided to the appellant.

In her representations, the appellant makes reference to a number of occasions where reference has been

made to the personal notes in the course of the arbitration of her grievance of the discipline imposed by the Ministry.

I have carefully reviewed the representations of the parties and the affidavit filed by the Administrator. I am satisfied that the search conducted by the Ministry was reasonable in the circumstances of the appeal.

**ORDER:**

I uphold the decision of the Ministry.

Original signed by: \_\_\_\_\_  
Donald Hale  
Inquiry Officer

\_\_\_\_\_  
March 7, 1995