



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

ORDER P-1197

Appeal P-9500726

Ontario Civilian Commission on Police Services



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NATURE OF THE APPEAL:

The Ministry of the Solicitor General and Correctional Services (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 held by the Ontario Police Commission, which is now known as the Ontario Civilian Commission on Police Services (the OCCPS). The requester was an employee of the Waterloo Regional Police in 1982 and made certain allegations which resulted in an investigation by the Commission under the Police Services Act.

The Ministry conducted a search for responsive records and informed the appellant that no such records exist. The requester (now the appellant) appealed this decision. During the mediation of the appeal, the appellant specifically requested access to a transcript of a telephone conversation which she had in 1982 with a named individual, as well as a 200-page investigation report into her allegations.

A Notice of Inquiry was provided to the appellant and the OCCPS. Representations were received from the Ministry, on behalf of the OCCPS, which is a separate institution for the purposes of the Act whose head is also the Minister of the Solicitor General and Correctional Services. The Ministry acted on behalf of the OCCPS in the processing of the request and in making submissions to this office.

DISCUSSION:

REASONABLENESS OF SEARCH

The Ministry submitted detailed representations outlining the nature of the searches undertaken by OCCPS staff as well as an affidavit from a Special Projects Officer with the OCCPS in which he deposes as to the nature and extent of the searches which were made for responsive records. The Ministry also indicates that the OCCPS records retention schedule provides that documents are maintained on site for three years followed by seven years at an off-site location, at which time they are destroyed. The Ministry concludes that the records to which the appellant is seeking access would, therefore, have been destroyed in 1992.

The appellant has not made any representations as to the reasons for her belief that these records, dating from 1982, should continue to exist.

Where a requester provides sufficient details about the records which he or she is seeking and the Ministry indicates that no records exist, it is my responsibility to ensure that the Ministry has made a reasonable search to identify any records which are responsive to the request. The Act does not require the Ministry to provide with absolute certainty that the record requested does not exist. However, in my view, in order to properly discharge its obligations under the Act, the Ministry must provide me with sufficient evidence to show that it has made a reasonable effort to identify and locate responsive records.

I have considered the representations of the Ministry and I am satisfied that the searches conducted by the Ministry and OCCPS staff for records responsive to the appellant's request were reasonable in the circumstances.

ORDER:

I uphold the OCCPS decision and dismiss the appeal.

Original signed by: _____
Donald Hale
Inquiry Officer

_____ May 30, 1996