



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

ORDER P-1308

Appeal P_9600301

Ministry of the Solicitor General and Correctional Services



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NATURE OF THE APPEAL:

The appellant submitted a request to the Ministry of the Solicitor General and Correctional Services (the Ministry) under the Freedom of Information and Protection of Privacy Act (the Act). The request read:

*From Jan 1989 - Sept 1995

A - All investigative notes, records, members note books pertaining to investigative or undercover operations.

B - Any and all records with my name in them period.

* Especially Joint Forces Organized Crime records notes reports which superiors have been trying to conceal.

Note: Records and access are being requested due to threats by members from 1970 to 1995.

The Ministry wrote to the appellant asking for clarification of his request, stating that the request, as it was worded, was not sufficiently detailed to enable it to identify the records. In its letter, the Ministry asked the appellant to reply by a specified date with the following information:

- the OPP (Ontario Provincial Police) detachment or branch which might hold the record
- the specific incident/case/occurrence and location of event
- the name of any lead investigating officer.

The appellant did not respond to the Ministry's correspondence.

The appellant wrote to this office again in May and July 1996, stating that he had clarified his request and that what he was seeking was all the Ministry's records relating to him.

During the mediation of this appeal, the Appeals Officer contacted the Ministry's Ontario Provincial Police Information Analyst to discuss whether it would be possible for the Ministry to search for responsive records, using only the appellant's name.

The Information Analyst reiterated what had been stated in the Ministry's original correspondence to the appellant; that in order to conduct a search, the Ministry requires the OPP location/detachment and the nature of the incident, since many of the OPP branches maintain separate databases. The Information Analyst further advised the Appeals Officer that the OPP has a computer database which contains occurrences dating back to 1990. This database includes police calls for assistance, traffic accidents, criminal investigations and general

occurrences. The Information Analyst indicated that although it is preferable to search the occurrence database with an individual's name and date of birth, it is still possible to search the database with just the individual's name.

At the Appeals Officer's request, the Information Analyst searched the occurrence database under the appellant's name. He later advised the Appeals Officer and the appellant that his search on this database did not reveal any responsive information relating to the appellant. The Information Analyst suggested to the appellant that if such information exists, it may be in the custody and control of a municipal police agency. It should be noted that, concurrent with the present appeal, an identical request and a subsequent appeal are being processed involving the Hamilton-Wentworth Regional Police Services Board for the same information.

DISCUSSION:

It is well-established that requesters, as well as institutions, have responsibilities in exercising their right of access under the Act. In Order 33, former Commissioner Sidney Linden made the following observations about the obligations of requesters and institutions under sections 47 and 48 of the Act:

As a matter of common sense an institution will, usually, be in a better position than a requester to know what records are within its custody or control. However, a requester may well have some knowledge as to the whereabouts of a record of personal information that pertains to him or her. Sections 47 and 48 of the Act place the responsibility for ascertaining the nature or whereabouts of a record of personal information on both the requester and the institution.

It is clear from sections 47 and 48 of the Act that there is some obligation placed on the requester to provide as much direction to an institution as possible to where the records he or she is requesting may be found and/or to describe the records sought. A requester's knowledge as to what records are in an institution's custody and control will vary.

A danger exists that, due to a lack of knowledge on the part of a requester, a record that would respond to his or her request may not be considered for release because it has not been identified by the requester with sufficient precision. A request for "all" information relating to a requester, held by an institution, is one example where there is a potential to frustrate the right to access provided for in the Act because a request for "all" information may not be sufficiently descriptive for the purposes of subsection 48(1), although an institution that is computerized and able to search its files using only a name may be able to answer the request.

In the majority of these types of requests for "all" information, an institution is going to have to seek clarification from the requester in order to respond to the request for access.

IS THE REQUEST SUFFICIENTLY SPECIFIC?

Section 47(1) of the Act states:

Every individual has a right of access to,

- (a) any personal information about the individual contained in a personal information bank in the custody or under the control of an institution; and
- (b) any other personal information about the individual in the custody or under the control of an institution with respect to which the individual is able to provide sufficiently specific information to render it reasonably retrievable by the institution.

The Ministry submits that the request was too general to properly and thoroughly identify the exact records sought and their location. The Ministry also indicates that it would require some additional personal information from the requester, such as his date of birth, in order to ensure that any records identified, in fact, pertained only to him. At this point, the Ministry had not conducted a search of its occurrence database.

As noted above, the Ministry performed a search of its occurrence database using the name of the appellant at the suggestion of the Appeals Officer. No records were located as a result of this search. The appellant was advised that this was the case. The Ministry advises that it is unable to perform any additional searches of its other record-holdings, however, without information from the appellant as to specific occurrences, dates, detachments or officers who may have had contact with him.

The appellant maintains that his request is clear and requires no further clarification.

In my view, the request, as framed, allowed the Ministry to conduct only a search of its occurrence database. This is the search which was performed. I find that because of the lack of additional information pertaining to specific occurrences which may involve the appellant, the Ministry was unable to conduct a search of its other record-holdings. Had the request included such additional information, the Ministry may have been able to conduct a more comprehensive search.

By way of summary, I find that the request lacked the necessary specificity which would have allowed the Ministry to complete a more thorough search.

DID THE MINISTRY ASSIST THE APPELLANT IN REFORMULATING HIS REQUEST?

Section 24(2) of the Act states:

If the request does not sufficiently describe the record sought, the institution shall inform the applicant of the defect and shall offer assistance in reformulating the request so as to comply with subsection (1).

The Ministry describes in detail the written contacts which its Information Analyst made in attempting to assist the appellant in reformulating both this and previous requests, so that a search for responsive records could be undertaken. According to the Ministry, the appellant failed to respond to either of these efforts by providing any details about the nature or location of the documents which he believes exist.

Based on the evidence provided by the Ministry, I am satisfied that its efforts to assist the appellant in reformulating his request were reasonable in the circumstances. I specifically find that the appellant was made aware of the reasons why the Ministry was having difficulty in responding to the request and that he refused to assist in narrowing or focussing the scope of his request.

ORDER:

I dismiss the appeal.

Original signed by: _____
Donald Hale
Inquiry Officer

_____ November 27, 1996