

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER MO-3595

Appeal MA16-619

Region of Peel

April 25, 2018

Summary: The appellant made a request to the Region of Peel (region) under the *Municipal Freedom of Information and Protection of Privacy Act* for a copy of a voicemail he says he left on its Street Helpline service on a specified date several years prior to his request. The region advised the appellant it did not have a responsive record. This order finds that the region conducted a reasonable search for the voicemail.

Statutes Considered: *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, section 17.

OVERVIEW:

[1] The appellant made a request to the Region of Peel (the region) under the *Municipal Freedom of Information and Protection of Privacy Act* (the *Act*) for certain records, including a voicemail that he left for a named employee of Street Helpline on a specified date more than three years prior to his request.

[2] The region advises that the Street Helpline allows individuals to connect with their outreach worker or to receive services and supports. The region's Outreach team operates the Helpline, as part of a partnership with community programs to provide support to individuals who are homeless or at imminent risk of homelessness.

[3] In response to the request for the voicemail, the region advised the appellant that no responsive records existed.

[4] The appellant appealed the region's decision.

[5] Mediation did not resolve the issue of the voicemail. The appellant elected to proceed to the inquiry stage of the appeal process on the issue of whether the region conducted a reasonable search for the voicemail. The region and the appellant provided representations in the inquiry.

[6] This order finds that the region conducted a reasonable search for the requested voicemail.

DISCUSSION:

[7] Where a requester claims that additional records exist beyond those identified by the institution, the issue is whether the institution has met its obligations under section 17 to conduct a reasonable search for records.¹ If I am satisfied that the search was reasonable in the circumstances, I will uphold the institution's decision. If I am not satisfied, I may order further searches.

[8] A reasonable search is one in which an experienced employee knowledgeable in the subject matter of the request expends a reasonable effort to locate records which are reasonably related to the request.²

[9] The *Act* does not require the institution to prove with absolute certainty that further records do not exist. However, the institution must provide sufficient evidence to show that it has made a reasonable effort to identify and locate responsive records.³

[10] A further search will be ordered if the institution does not provide sufficient evidence to demonstrate that it has made a reasonable effort to identify and locate all of the responsive records within its custody or control.⁴

[11] I required the region to provide a written summary of all the steps it took to search for the voicemail record requested, including:

- who conducted searches
- what places were searched
- who was contacted in the course of the search
- what types of files were searched; and

¹ Orders P-85, P-221 and PO-1954-I.

² Orders M-909, PO-2469 and PO-2592.

³ Orders P-624 and PO-2559.

⁴ Order MO-2185.

- what the results of the searches were.

[12] I also asked the region whether responsive records existed but had been destroyed, and, if so, to provide information about record maintenance policies and practices such as record retention schedules.

[13] The region provided affidavit evidence from the manager who oversees the Street Helpline and an Acting Manager of IT at the region.

[14] The Street Helpline manager's affidavit advises that:

- messages received in the Street Helpline voice mailbox are reviewed daily and messages for individual staff forwarded to their personal voice mail.
- any remaining messages are responded to and then deleted within one week of being received.
- no messages for the dates requested exist in the Street Helpline voice mailbox.

[15] The region's Acting Manager of IT's affidavit advises that:

- the voice network system only retains a set number of call activity logs and then overwrites older logs once the system's capacity is reached.
- saved voicemail messages are only retained in the voice mail system for 25 days.

[16] The Acting Manager of IT also states that she reviewed available activity logs for the Street Helpline voice mailboxes and concluded that staff read, save and/or delete voice mail messages as they receive them.

[17] The appellant's representations reference service standards that he says requires the region to respond to voicemail messages within one business day. He also references service standards about retention of transcribed voicemail messages, though he does not address the issue of how long voicemail messages should be retained.

[18] I am satisfied that the region conducted a reasonable search for the voicemail record. The appellant made his request for the voicemail more than three years after he says he left the message. The urgent nature of calls to the Street Helpline service means the region needs to respond promptly to messages left with the service. This diminishes the need to retain voicemail messages for a lengthy period. It is therefore reasonable that the region cannot locate a copy of a voicemail message the appellant requested more than three years after he says he made it.

[19] The region has satisfied me that it conducted a reasonable search for the voicemail message requested.

ORDER:

I find that the region conducted a reasonable search for the voicemail the appellant requested.

Original Signed by: _____
Hamish Flanagan
Adjudicator

_____ April 25, 2018