

Information and Privacy Commissioner,  
Ontario, Canada



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

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## ORDER PO-4584

Appeal PA22-00369

Ministry of Health

January 8, 2025

**Summary:** The appellant asked the ministry for records, between March 2020 and March 2022, of scientific evidence for specific COVID-19 protocols. The ministry located seven records (totalling over 150 pages) that were responsive to the appellant's request. However, the appellant asserted that additional records should exist. In this order, the adjudicator finds that the ministry's affidavit evidence establishes that the ministry conducted a reasonable search for records responsive to the appellant's request. She dismisses the appeal.

**Statutes Considered:** *Freedom of Information and Protection of Privacy Act*, RSO 1990, c F.31, section 24.

### BACKGROUND:

[1] The Ministry of Health (the ministry) received a request from the appellant under the Freedom of Information and Protection of Privacy Act (the Act) for access to various records related to COVID-19 between March 20, 2020, and March 4, 2022. The access request asked for "scientific evidence" regarding COVID-19 infection, and certain restrictions and protocols implemented in Ontario. For example, the appellant asked for scientific evidence that riding public transit during rush hour poses less of a risk of contracting COVID-19 than dining indoors at a restaurant does.

[2] The ministry located seven records responsive to the access request. It issued a decision granting the appellant partial access to the seven records, totalling 154 pages. The appellant was dissatisfied with the ministry's decision and appealed it to the

Information and Privacy Commissioner of Ontario (the IPC). He asserted that additional records responsive to his request should exist.

[3] The IPC attempted to resolve the appeal. The appellant asserted that records should exist of the scientific data (studies, drug trials etc.) relied on by the ministry when formulating and implementing the COVID-19 restrictions and protocols he was asking about. The appellant asked the ministry for the records that formed the basis of specific decisions made by the Minister of Health and Chief Public Health Officer, including about the COVID-19 vaccine.

[4] In response, the ministry confirmed that there are no additional records responsive to the appellant's request. The ministry also stated that it does not conduct scientific studies or drug trials, and it does not have the authority to approve medications for use.

[5] The appeal was not resolved, and it was moved to adjudication where an adjudicator may conduct an inquiry. I conducted an inquiry and received representations from the ministry. I shared the ministry's representations with the appellant and invited his response. The appellant did not provide representations.

[6] In this order, I uphold the reasonableness of the ministry's search for records responsive to the appellant's request and I dismiss the appeal.

## **DISCUSSION:**

[7] The sole issue in this appeal is whether the ministry conducted a reasonable search for records responsive to the appellant's request, as required by section 24 of the Act.<sup>1</sup> Previous IPC orders have consistently found that a reasonable search is one in which an experienced employee knowledgeable in the subject matter of the request makes a reasonable effort to locate records that are reasonably related to the request.<sup>2</sup>

[8] The ministry provides representations on its search, including an affidavit. The affidavit is sworn by the ministry's Manager/Executive Assistant for the Chief Medical Officer of Health and Assistant Deputy Minister. The affidavit describes the steps taken to search for responsive records by specific staff members in various ministry branches. It also describes the places and records that were searched, including electronic copies of correspondence, briefing notes and decks, reports and emails contained in specific email accounts including sent and deleted correspondence, and electronic records on shared drives.

[9] The appellant, who received a copy of the ministry's representations and its affidavit, provides no representations in response.

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<sup>1</sup> Orders P-85, P-221 and PO-1954-I.

<sup>2</sup> Orders M-909, PO-2469 and PO-2592.

[10] When addressing the issue of reasonable search, IPC orders have consistently held that an institution must provide enough evidence to show that it has made a reasonable effort to identify and locate responsive records;<sup>3</sup> that is, records that are "reasonably related" to the request.<sup>4</sup> The ministry's affidavit evidence, described above, establishes that the ministry made a reasonable effort to identify and locate records reasonably related to the appellant's request.

[11] Previous IPC orders have also consistently found that a requester claiming that additional records exist must provide a reasonable basis for concluding that such records exist.<sup>5</sup> The appellant provides no reasonable basis for me to conclude that additional responsive records exist.

[12] For the foregoing reasons, I find that the ministry conducted a reasonable search and there is no reasonable basis to conclude that additional responsive records exist.

**ORDER:**

I dismiss the appeal.

Original Signed by: \_\_\_\_\_  
Stella Ball  
Adjudicator

\_\_\_\_\_ January 8, 2025

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<sup>3</sup> Orders P-624 and PO-2559.

<sup>4</sup> Order PO-2554.

<sup>5</sup> Order MO-2246.