

**ALBERTA**

**OFFICE OF THE INFORMATION AND PRIVACY  
COMMISSIONER**

**ORDER F2005-024**

August 9, 2006

**DAVID THOMPSON HEALTH REGION**

Review Number 3073

**Office URL:** <http://www.oipc.ab.ca>

**Summary:** The Applicant made a request under the *Freedom of Information and Protection of Privacy Act* to the David Thompson Health Region for access to information about himself. The David Thompson Health Region did not locate any responsive records to the request.

The Applicant requested a review of the response by the David Thompson Health Region on the basis of his belief that the David Thompson Health Region had not conducted an adequate search.

The Adjudicator reviewed the search conducted by the David Thompson Health Region, as well as the manner and timing of the communication of the results. The Adjudicator found that the David Thompson Health Region had conducted an adequate search and met its obligations under section 10(1) of the Act.

**Statutes Cited:** **AB:** *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c.F-25, ss. 10(1), 72.

**Authorities Cited:** **AB:** Orders 96-022, 98-003.

## **I. BACKGROUND**

[para 1] On July 12, 2004, the Applicant made a request to the David Thompson Health Region (the “Public Body”) under the *Freedom of Information and Protection of Privacy Act* (the “Act”) for information about himself from one of several individuals. The information requested included, but was not limited to; letters, memorandums, e-mails, faxes, notes, tapes and computer records.

[para 2] On August 3, 2004 the Public Body informed the Applicant that it did not locate any responsive records to his request.

[para 3] On August 11, 2004, the Applicant requested a review of the Public Body’s failure to locate responsive records. Mediation was authorized but was unsuccessful in resolving this issue. The matter was set down for a written inquiry.

[para 4] The Public Body and the Applicant each submitted an initial submission and a rebuttal. I accepted a portion of the Applicant’s rebuttal *in camera*.

## **II. RECORDS AT ISSUE**

[para 5] The Records in this inquiry consist of information about the Applicant which the Public Body states does not exist.

## **III. ISSUE**

[para 6] Did the Public Body conduct an adequate search for responsive records, and thereby meet its duty to the Applicant, as provided by section 10(1) of the Act?

## **IV. DISCUSSION OF ISSUE**

[para 7] Section 10(1) of the Act reads:

*10(1) The head of a public body must make every reasonable effort to assist applicants and to respond to each applicant openly, accurately and completely.*

[para 8] In Order 96-022, the Commissioner said that a public body has the burden of proving that it has fulfilled its duty under section 10(1). The Commissioner said that a public body must show that it has conducted an adequate search. The Public Body must show that: (a) it made every reasonable effort to search for the records requested; and (b) that it informed the applicant in a timely fashion about what has been done.

[para 9] In Order 98-003, the Commissioner said that a decision concerning an adequate search must be based on the facts relating to how a public body conducted a search in the particular case. There is no specific test for the adequacy of the search, as this is a question of fact to be determined in every case. The standard for the search is not perfection but rather what is “reasonable” in the circumstances.

[para 10] The Applicant states that the Public Body did not conduct an adequate search. He states that his wife had also made an access request to the Public Body and, in response, the Public Body provided her with records that contained several references to him. The Applicant states that the existence of these records suggests that the Public Body did not complete an adequate search in response to his request. The Applicant also raised a number of other issues in his submissions regarding the collection and correction of information, as well as the Public Body's investigation into his wife's employment performance.

[para 11] The Public Body states that it conducted an adequate search in response to the Applicant's access request. The Public Body states that it undertook a search for both written and electronic information, as well as a search of its patient database. In support of its position, the Public Body provided information regarding the search process as well as detailed information regarding its search methodology.

[para 12] After a review of the arguments and evidence before me, I find that the Public Body conducted an adequate search and met its obligations under section 10(1) of the Act. I find that the Public Body made every reasonable effort to search for the records requested and that it informed the Applicant in a timely fashion about what was done.

[para 13] The records provided to the Applicant's wife in response to her access request contain three references to the Applicant. However, I do not find that the failure of the Public Body to provide these records to the Applicant, by itself, constitutes a failure by the Public Body to conduct an adequate search. I also do not find that it is indicative of the existence of further records which refer to the Applicant. Any suggestion that further written information exists is speculative. In coming to this conclusion I took into account the fact that the Applicant states that he had not had any contact with the Public Body, nor did he give any information to the Public Body. I also took into account the fact that the records provided to the Applicant's wife only contain a limited reference to the Applicant. The records do not refer to the Applicant by name but, rather, indirectly refer to the Applicant using the words "he", "him" and "husband".

[para 14] I do not intend to address the other issues raised by the Applicant regarding the collection and correction of information. These issues were not outlined in the inquiry notice and, as such, are not at issue in this inquiry. I also find that the Applicant's references to the Public Body's investigation of his wife's employment performance is irrelevant to the issue before me under section 10(1) of the Act.

## **V. ORDER**

[para 15] I find that the Public Body conducted an adequate search for responsive records as required by section 10(1) of the Act.

[para 16] Given my findings, there is no Order to make under section 72 of the Act.

Dave Bell  
Adjudicator