



## **INVESTIGATION REPORT 189-2015**

### **Saskatchewan Government Insurance**

**February 3, 2016**

**Summary:** The Commissioner received a complaint from an individual who was not satisfied with the investigation conducted by Saskatchewan Government Insurance (SGI) into her concern that an SGI employee had inappropriately accessed her personal information in the Auto Fund database. Upon investigation, the Commissioner was unable to determine whether a privacy breach had occurred. The Commissioner recommended that SGI find a solution that would enable it to determine with more certainty whether an employee's access was for legitimate business purposes and provide its conclusions within six months.

#### **I BACKGROUND**

[1] On September 15, 2015, Saskatchewan Government Insurance (SGI) received a complaint from an individual who was concerned that an employee of SGI accessed her personal information without her consent. SGI conducted an investigation into the complaint and provided its conclusion to the Complainant which was that no inappropriate access had occurred.

[2] On October 6, 2015, my office received a written complaint from the individual. The individual felt that SGI did not do a thorough job investigating her complaint and requested that my office investigate the matter.

[3] On October 15, 2015, my office provided notification to SGI and the Complainant advising that my office would be undertaking an investigation and requested that SGI

provide my office with a copy of its internal privacy breach investigation report. The report was received on October 30, 2015.

## II DISCUSSION OF THE ISSUES

[4] SGI is a “government institution” as defined in subsection 2(1)(d)(ii) of *The Freedom of Information and Protection of Privacy Act* (FOIP).

### 1. Is there “personal information” of the Complainant’s involved in this matter?

[5] Our customary analysis when dealing with a privacy complaint under Part IV of FOIP is to first determine whether there is personal information involved as defined in subsection 24(1) of FOIP.

[6] Subsection 24(1) of FOIP provides a number of examples of the types of information that would qualify as personal information. However, this list is non-exhaustive. According to SGI’s investigation report, the information viewed was the Complainant’s name, date of birth, address, vehicle plate, vehicle description, VIN number, vehicle status, registered owner safety rating, and whether there were any arrears or receivables on the account. The information was accessed on SGI’s Auto Fund database. This type of information falls within subsections 24(1)(a), (b), (e), (j) and (k)(i) of FOIP which provides as follows:

24(1) Subject to subsections (1.1) and (2), “**personal information**” means personal information about an identifiable individual that is recorded in any form, and includes:

(a) information that relates to the race, creed, religion, colour, sex, sexual orientation, family status or marital status, disability, age, nationality, ancestry or place of origin of the individual;

(b) information that relates to the education or the criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved;

...

(e) the home or business address, home or business telephone number or fingerprints of the individual;

...

(j) information that describes an individual's finances, assets, liabilities, net worth, bank balance, financial history or activities or credit worthiness; or

(k) the name of the individual where:

(i) it appears with other personal information that relates to the individual;

...

[7] Therefore, there is personal information of the Complainant's involved.

**2. Was there "use" of the Complainant's personal information without authority?**

[8] The privacy activity at issue in this circumstance is *use* of the Complainant's personal information. *Use* is the internal utilization of personal information by the public body and includes sharing of the personal information in such a way that it remains under the control of the public body.

[9] Section 28 of FOIP establishes the rules around a government institution's use of personal information as follows:

**28** No government institution shall use personal information under its control without the consent, given in the prescribed manner, of the individual to whom the information relates, except:

(a) for the purpose for which the information was obtained or compiled, or for a use that is consistent with that purpose; or

(b) for a purpose for which the information may be disclosed to the government institution pursuant to subsection 29(2).

[10] There is dispute between the parties as to whether the SGI employee's access to the Complainant's personal information was for legitimate business purposes consistent with section 28 of FOIP or for the employee's personal use. Examples of legitimate business purposes would include administering a particular SGI program, delivering an SGI service or some other directly related activity of SGI.

- [11] According to SGI's internal privacy breach investigation report, after receiving the complaint, it ran an audit of its Auto Fund database. The timeframe captured in the audit was September 1, 2013 to September 1, 2015. The audit was specific to any accesses by the employee to the Complainant's information. The audit showed that the employee conducted a specific license plate search on September 3, 2013. The license plate was associated with a camper belonging to the Complainant.
- [12] SGI interviewed the employee. The employee claimed to not remember why the license plate was searched in 2013 but suggested it may have been a third party search related to an auto claim or the license plate was inputted incorrectly. The employee is an auto/general adjuster and this would typically be part of the employee's duties. SGI asserted that based on its interview there was no evidence that any information had been accessed inappropriately.
- [13] The Complainant asserted that her personal information was accessed by the employee for personal reasons. According to the Complainant, she has a contentious personal relationship with the employee. Given the information provided, my office requested that SGI run an audit further back to January 1, 2011. SGI agreed and on December 17, 2015, it advised that no further accesses by the employee were found.
- [14] Based on what has been provided to my office, it cannot be determined whether the employee's access was for a legitimate business purpose or for personal use. It is impossible to ascertain the truth. In order to be compliant with section 28 of FOIP, SGI must be able to determine with more certainty that its employees' accesses are for a purpose consistent with subsections 28(a) or (b) of FOIP. At this point, it's the employee's word against the Complainant's. That is not sufficient.
- [15] Therefore, I recommend that SGI explore ways that it can better determine whether its employees' accesses are for legitimate business purposes. Not only does this protect citizens and their personal information but it protects employees from allegations that may be unfounded.

[16] I note that the Complainant filed a second complaint with SGI regarding another SGI employee's access to the personal information in her Auto Fund account. SGI recently concluded its investigation into that complaint. The employee denied that the accesses were for personal use. SGI determined there was no evidence that a privacy breach had occurred. This second complaint reinforces the need for SGI to be able to determine whether its employees' accesses are for legitimate business purposes.

[17] My office shared its preliminary finding and recommendation with SGI on December 18, 2015. SGI responded on January 15, 2016 indicating that it would comply with the recommendation.

#### **IV FINDING**

[18] I am unable to determine with certainty whether a privacy breach has occurred in this case.

#### **V RECOMMENDATION**

[19] I recommend that SGI explore solutions that will enable it to determine with more certainty whether employee's accesses are for legitimate business purposes and advise my office of its conclusions within six months.

Dated at Regina, in the Province of Saskatchewan, this 3<sup>rd</sup> day of February, 2016.

Ronald J. Kruzeniski, Q.C.  
Saskatchewan Information and Privacy  
Commissioner