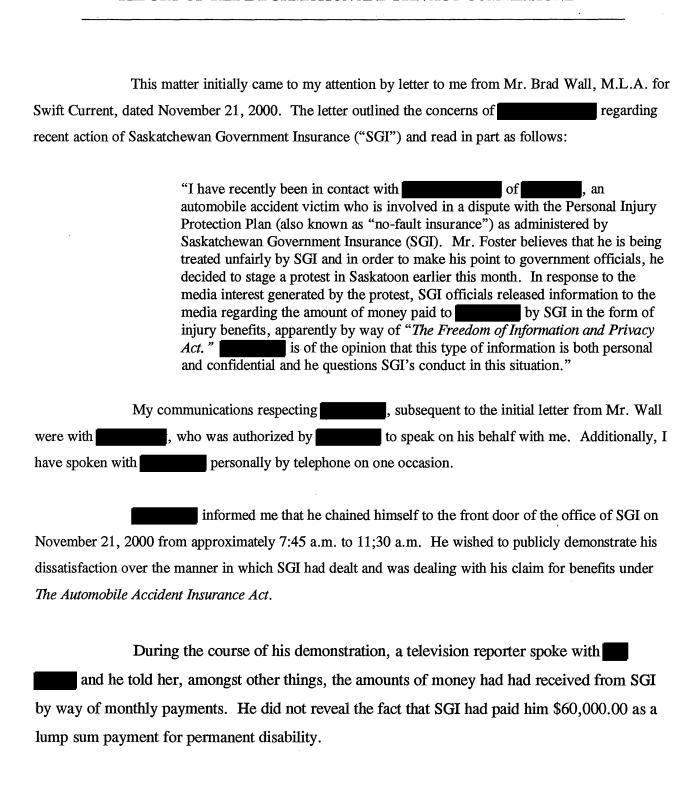
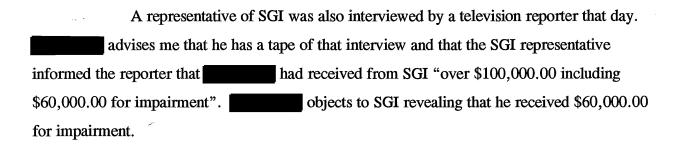
AND SASKATCHEWAN GOVERNMENT INSURANCE REPORT OF THE INFORMATION AND PRIVACY COMMISSIONER



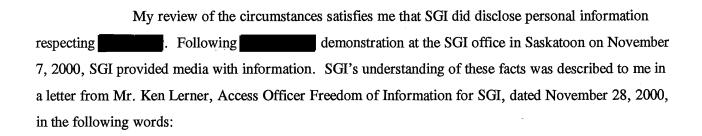


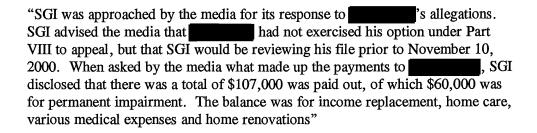
has other complaints respecting SGI; my authority is limited to any issue of privacy raised in the circumstances.

My authority respecting the release of information by a government institution is set forth in Section 33 of *The Freedom of Information and Protection of Privacy Act* ("the *Act*"), which provides as follows:

"33 The commissioner may:

- (a) offer comment on the implications for privacy protection of proposed legislative schemes or government programs;
- (b) after hearing the head, recommend that a government institution:
 - (i) cease or modify a specified practice of collecting, using or disclosing information that contravenes this Act; and
 - (ii) destroy collections of personal information that is collected in contravention of this Act;
- (c) in appropriate circumstances, authorize the collection of personal information in a manner other than directly from the individual to whom it relates:
- (d) from time to time, carry out investigations with respect to personal information in the possession or under the control of government institutions to ensure compliance with this Part."





The *Act* describes what constitutes personal information. Section 24(1)(c) provides as follows:

- "24(1) Subject to subsection (2), "personal information" means personal information about an identifiable individual that is recorded in any form, and includes:
 - (c) information that relates to health care that has been received by the individual or to the health history of the individual;"

A government institution (which SGI is under the *Act*) is prohibited from disclosing personal information in its possession or under its control, without the written consent of the person to whom the information relates except in certain circumstances (Section 29 of the *Act*).

Section 29(2) of the *Act* sets forth numerous circumstances in pursuance of which personal information in the possession or under the control of a government institution may be released. These circumstances include the following as set forth under Section 29(2) (o)(i) of the *Act*:

"29(2) Subject to any other Act or regulation, personal information in the possession or under the control of a government institution may be disclosed: ...

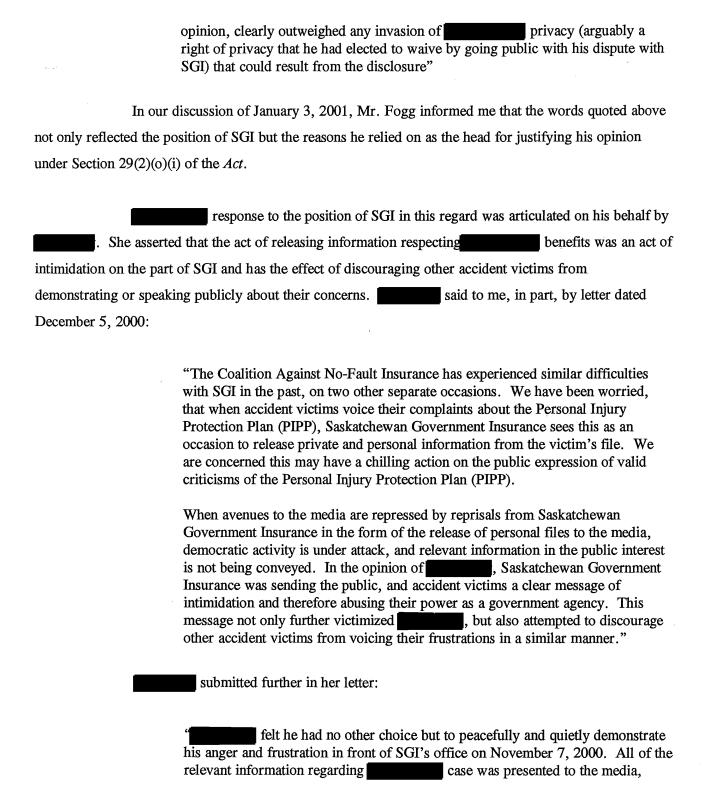
- (o) for any purpose where, in the opinion of the head:
 - (i) the public interest in disclosure clearly outweighs any invasion of privacy that could result from the disclosure; or"

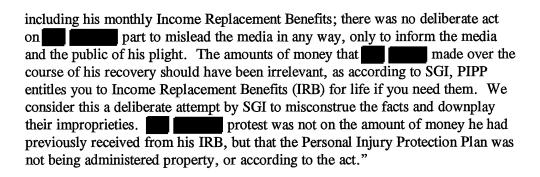
It is the above referenced provision of the *Act* that is relied upon by SGI for disclosing the personal information related to in the manner previously particularized in this Report. In discussion with me of January 3, 2001, Mr. Larry Fogg, President of SGI, confirmed that he was of the opinion that the public interest in knowing the particulars of the benefits paid to solve by SGI outweighed any invasion of the privacy of that resulted from the disclosure.

The reasons relied upon by Mr. Fogg for developing the opinion set forth in the previous paragraph are outlined in the letter to me from Mr. Lerner of November 28, 2000. The reasons are described as follows:

elected to go public to protest the termination of his PIPP income replacement benefits by SGI and SGI's refusal to pay for retraining. In doing so he omitted information known to him and relevant to SGI's handling of his claim, firstly that in light of new medical information SGI was reconsidering its decision terminating his income replacement benefits and secondly that, to date he had received PIPP benefits totalling \$107,000 out of which \$60,000 was for permanent impairment.

along with its decision to reconsider termination of his income replacement benefits serves as evidence of a fair and reasonable approach adopted by SGI in the handling of his claim. The failure of to disclose this information and instead to focus public attention on termination of his income replacement benefits and refusal to pay for retraining was misleading and served to erode public confidence in SGI's administration of the Personal Injury Protection Plan. SGI views public confidence in its administration of the Personal Injury Protection Plan as vital to achieving the goals of the plan. SGI considered it in the public interest to disclose the amount of the PIPP benefits paid to to restore public confidence in it's [sic] administration of the Personal Injury Protection Plan. The public interest in disclosure of this information in this case, in our





As previously observed, the privacy powers of myself as commissioner are those set forth in Section 33 of the *Act*. Relative to this issue, I "may, after hearing the head recommend that a government institution cease or modify a specific practice ... of disclosing information that contravenes ..." the *Act*.

Should I conclude that a specific practice of a government institution of disclosing information contravenes the *Act* I can only recommend that the practice be discontinued or modified. I have no power to order apologies be given or money paid to anyone by way of penalty as requested, in this case, by on behalf of the case.

In the circumstances of this complaint, I have concluded that no recommendation by me would be appropriate under Section 33 of the *Act*. Before I can consider making a recommendation, the provisions of Section 33 require me to conclude that the *Act* of disclosing the personal information of by SGI constituted a contravention of the *Act*. The facts do not warrant such a conclusion.

entitlements under the provisions of *The Automobile Accident Insurance Act*. He clearly wanted the community to know of his dissatisfaction over the manner in which he perceived SGI had dealt with his statutory rights. In the course of his demonstration, he disclosed to the media the details of a portion of the payments that had been made to him by SGI.

In discussion with members of the media, a representative of SGI informed the media of all the amounts of money that had been paid to under the Personal Injury Protection Plan provision of *The Automobile Accident Insurance Act*, including \$60,000.00 paid for impairment. The head of SGI has expressed the opinion that apprising the public of the fact that SGI had paid to the amounts to which he was statutorily entitled was of greater importance than any invasion of privacy by publicly revealing the figures. It is said on behalf of SGI that the revealing of this information would offset any erosion of public confidence in SGI that public demonstration had caused.

I have no reason to believe that the opinion of Fogg, developed under Section 29(2)(o)(i) of the *Act* was unreasonable. For me to conclude that the disclosing of the information in question constituted a contravention of the *Act*, I am of the view that I would have to conclude that the opinion developed by Mr. Fogg was, when viewed objectively, unreasonable, which I have concluded is not the case.

benefits set forth by way of statute to which

Dated at Regina, in the Province of Saskatchewan, this 11th day of January, 2001.

GERALD L. GERRAND, Q.C. Commissioner of Information and Privacy for Saskatchewan