



Office of the
Saskatchewan Information
and Privacy Commissioner

REVIEW REPORT 160-2023

Ministry of Corrections, Policing & Public Safety

September 7, 2023

Summary:

The Ministry of Corrections, Policing & Public Safety (Corrections) received an access to information request under *The Freedom of Information and Protection of Privacy Act* (FOIP) from the Applicant. The Applicant requested the Commissioner conduct a review of Corrections' decision not to respond to the Applicant's access to information request within the required timelines. In this review, the Commissioner found that Corrections did not comply with subsection 12(3) of FOIP. The Commissioner recommended that within 30 days of the issuing of this Report, Corrections amend its policies and procedures to comply with subsection 12(3) of FOIP. Further, the Commissioner recommended Corrections take steps to add resources so that it can comply with the timelines in FOIP, particularly subsection 12(3).

I BACKGROUND

[1] On April 26, 2023, the Ministry of Corrections, Policing & Public Safety (Corrections) received an access to information request under *The Freedom of Information and Protection of Privacy Act* (FOIP) from the Applicant. The Applicant sought access to records described as follows:

...all drafts, interim reports, final reports and recommendations from Rod Knecht and/or Rod Knecht and Associates in regards to the review of the Prince Albert Police Service which began in November 2022

- [2] On May 23, 2023, the Applicant contacted Corrections requesting an update to a timeline for when they may receive the record. Corrections responded indicating it was processing the request which was due by May 26, 2023.
- [3] On May 26, 2023, the Applicant contacted Corrections to verify that they would receive a response to their request on this day. Corrections responded on May 26, 2023, by extending its time to respond to the request to June 26, 2023, pursuant to subsections 12(1)(a)(ii) and 12(1)(b) of FOIP.
- [4] On June 26, 2023, Corrections sent an email to the Applicant advising them that it was still processing their request.
- [5] On June 29, 2023, the Applicant responded to Corrections:
- ... As June 26, 2023 marked the end of the 30-day extension for the request, and this email indicates further time is needed, please advise as to the timeline for this request.
- I am looking for a very specific report so know that it's not an issue of searching emails.
- [6] On July 5, 2023, as there was no response from Corrections, the Applicant contacted Corrections again to inquire about the status of its section 7 decision.
- [7] On July 6, 2023, the Applicant asked my office to conduct a review claiming that Corrections was deemed to have refused access to the information because it failed to respond to the request.
- [8] On July 17, 2023, my office contacted Corrections requesting it to provide its section 7 decision to the Applicant by July 24, 2023.
- [9] No response was received by my office from Corrections and therefore, the information was again requested on July 27, 2023, with a deadline of July 28, 2023.

[10] On July 28, 2023, my office provided notification of its intent to conduct a review to both Corrections and the Applicant. My office requested Corrections provide a submission explaining why it did not respond to the Applicant's access to information request within the legislated timelines pursuant to sections 7 and 12 of FOIP and why the time extension was warranted in the circumstance.

[11] On July 28, 2023, Corrections replied stating:

The Ministry will not be able to meet the noon deadline on July 28th, however, is very committed to providing a response to the Applicant and are in the final working stages of doing so.

[12] By letter dated August 11, 2023, Corrections issued its section 7 decision to the Applicant.

[13] On August 17, 2023, after discussions with the Applicant, my office advised Corrections that the review would continue.

II RECORDS AT ISSUE

[14] As my office is reviewing whether Corrections followed the legislated timelines to provide a response to the Applicant, there are no records at issue.

III DISCUSSION OF THE ISSUES

1. Do I have jurisdiction?

[15] Corrections qualifies as a "government institution" pursuant to subsection 2(1)(d)(i) of FOIP. Therefore, I have jurisdiction to undertake this review.

2. Did Corrections comply with sections 7 and 12 of FOIP?

[16] Subsection 7(2) of FOIP sets out the time in which a government institution shall respond to an access to information request and the way in which a head shall respond to the request. That subsection provides:

7(2) The head shall give written notice to the Applicant within 30 days after the application is made:

[17] Section 12 of FOIP provides that a government institution can extend the 30-day response deadline up to an additional 30 days – meaning 60 days in total. However, limited circumstances must exist, which are outlined in subsection 12(1) of FOIP.

[18] Corrections received the Applicant’s access to information request on April 26, 2023, which meant it had until May 26, 2023, to respond to the Applicant unless it extend its time to respond pursuant to subsection 12(2) of FOIP. In a letter dated May 26, 2023, Corrections stated that it was extending the time to respond by an additional 30 days to June 26, 2023, pursuant to subsections 12(1)(a)(ii) and (b) of FOIP.

[19] Subsection 12(3) of FOIP provides:

12(3) Within the period of extension, the head shall give written notice to the applicant in accordance with section 7.

[20] Corrections sent its section 7 decision to the Applicant by letter on August 11, 2023, which was 46 days past the due date of the extended deadline of June 26, 2023. Therefore, Corrections was not in compliance with subsection 12(3) of FOIP.

[21] In my office’s Review Reports [322-2021](#), [030-2022](#) at paragraph [19] and [164-2021](#) at paragraph [124], I indicated that if a government institution has not complied with subsection 12(3) of FOIP, I will not consider whether the government institution has complied with subsections 12(1) or 12(2) of FOIP. As Review Report 164-2021 involved Corrections, it would already be aware of my position on this.

[22] In conclusion, Corrections was not in compliance with subsection 12(3) of FOIP. .

[23] It should be noted that recently there have been more review matters before my office than usual involving Corrections and a failure to provide section 7 decisions within the statutory timelines I recommend that Corrections take steps to add resources so that it can comply with the timelines in FOIP, particularly subsection 12(3). This which would include: 1) amending its policies and procedures; and 2) adding resources to ensure compliance with timelines, particularly subsection 12(3) of FOIP.

IV FINDINGS

[24] I find that I have jurisdiction to conduct this review.

[25] I find Corrections was not in compliance with subsection 12(3) of FOIP.

V RECOMMENDATIONS

[26] I recommend that within 30 days of the issuing of this Report, Corrections amend its policies and procedures to comply with subsection 12(3) of FOIP.

[27] I recommend that Corrections take steps to add resources so that it can comply with the timelines in FOIP, particularly subsection 12(3).

Dated at Regina, in the Province of Saskatchewan, this 7th day of September 2023.

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