

FILE NO. - 93/007

REPORT WITH RESPECT TO THE APPLICATION  
FOR REVIEW OF [REDACTED] WITH RESPECT TO INFORMATION  
REQUESTED FROM PROVINCIAL SECRETARY

[REDACTED] [REDACTED] filed an application for information with the Provincial Secretary for "all polling results (including questions, date conducted, firm involved, cost and survey size) since November 10, 1992."

The Provincial Secretary acknowledged receiving the application on January 28, 1993. By letter dated February 10, 1993, the Provincial Secretary advised [REDACTED] in part:

"Thank you for your application for access under *The Freedom of Information and Protection of Privacy Act* received in our office on January 28, 1993. This letter is to advise you that with respect to the Government's monthly omnibus poll, discussions are currently under way regarding a regular publication schedule for these results and will therefore not be released at this time."

Subsequently, by "Request for Review" dated March 15, 1993, which I received on March 22, 1993, I was asked to review this matter and on the same date, I advised the Provincial Treasurer's Office that I would be proceeding with a review.

It appears, however, that in the meantime, on March 15, 1993 by news release, the Provincial Secretary announced a policy for releasing polling results. It states in part:

"Provincial Secretary Ed Tchorzewski today announced a policy regarding the release of public opinion polling results on a quarterly basis.

'The new policy is to release to the media and to the public, all public opinion polling and the market research conducted throughout government every ninety days, beginning April 5,' Tchorzewski said.

Tchorzewski said the policy meets the government's commitment to open and accountable government and is also in keeping with the provisions of *The Freedom of Information and Protection of Privacy Act*."

When an application is made under the Act, the head of the government institution is required by Section 7(1) to consider the application and give written notice to the applicant of the head's decision, and by Section 7(2)(d), if access is refused, to state the reasons for the refusal and to identify the specific provision of the Act on which the refusal is based. The letter of February 10, 1993 advising that the information requested would not be provided did not comply with Section 7(2)(d) of the Act. Even if the letter is not considered to be a refusal, the head would be deemed to have refused to provide the information under Section 7(5) which provides:

"A head who fails to give notice pursuant to subsection 2 is deemed to have given notice on the last day of the period set out in that subsection of a decision to refuse to give access to the record."

The head is therefore deemed to have refused to provide the information on February 28, 1993 and accordingly the applicant's request for review is well founded. The information was not provided in accordance with the Act and no valid reason was given for not doing so.

However, on April 5, last, in accordance with its announced policy, the government did release the results of the polls requested by the applicant. That being so, it becomes unnecessary for me to make any specific recommendation with regard to this matter.

Dated at Regina, Saskatchewan this            day of  
1993.

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Derril G. McLeod, Q.C.,  
Commissioner of Information and  
Privacy for Saskatchewan