

**REPORT WITH RESPECT TO THE APPLICATION
FOR REVIEW OF ██████████ IN RELATION TO INFORMATION
REQUESTED FROM SASKATCHEWAN LABOUR**

██████████ ("the Applicant") filed an Access to Information Request Form with the Department of Labour ("the Respondent") dated October 13, 2000. The letter that accompanied the Access to Information Request Form detailed the nature of the information desired by the Applicant:

"I request a copy of the recent report on The Saskatchewan Workers' Compensation Board written by ██████████. ██████████ conducted the review this past summer.

I also request any notes and any documents that are part of and/or attached to the report."

Sandra Morgan, Deputy Minister of the Respondent replied to the request by letter dated November 15, 2000. The relevant portions of the reply read as follows:

"Your application for access to the ██████████ report on the Workers' Compensation Board was forwarded to the Department of Labour from the Crown Investments Corporation of Saskatchewan. This is to advise that the document you have requested will be released in due course after consideration by Cabinet.

This information, however, cannot be released at this time, as it is currently under review by the Minister who will subsequently be making recommendations to her Cabinet colleagues. Information of this nature is exempt from access. According to section 16(1) of *The Freedom of Information and Protection of Privacy Act*. I can advise, however, that after Cabinet has had an opportunity to review and consider the report prepared by ██████████ it will be made public."

The Applicant filed a Request for Review with me dated November 28, 2000. After considering the materials provided to me by the Applicant, I determined that I would undertake a Review as requested by the Applicant and so advised the Respondent.

For purposes of carrying out my Review, I requested the Respondent to provide me with a copy of the [REDACTED] report. This request was made pursuant to the provisions of Section 54 of *The Freedom of Information and Protection of Privacy Act* ("the Act"). A copy of the report was forwarded to me by the Deputy Minister of the Respondent by letter dated December 15, 2000, which letter in part contained the following assertions:

"The provincial Cabinet has not yet had an opportunity to review and consider the report prepared by [REDACTED]. With respect to releasing the document publicly, I understand the Minister Crofford intends to release the report by February 10, 2001, 90 days after the Department of Labour responded to the Access to Information Request from [REDACTED].

Thank you for providing the background information that accompanied your letter. I wish to clarify two issues raised by [REDACTED] in his November 28, 2000 letter. [REDACTED] [REDACTED] indicated that [REDACTED] [REDACTED] report was paid for by public money, and that the review was conducted on behalf of the Department of Labour. Please note that the Workers' Compensation Board paid the costs associated with conducting the review and preparing the report. The Minister responsible for the Workers' Compensation Board, not the Department of Labour, contracted [REDACTED] [REDACTED] as a Minister's Special Representative."

My inquiries of the Respondent indicate to me at the time of the writing of this Report that the Cabinet has not yet reviewed and dealt with the Report and there is no present indication as to when Cabinet may do so.

The Respondent relies on the provisions of Section 16(1)(a) of the *Act*.

"16(1) A head shall refuse to give access to a record that discloses a confidence of the Executive Council, including:

- (a) records created to present advice, proposals, recommendations, analyses or policy options to the Executive Council or any of its committees;"

I have read the copy of the [REDACTED] report provided to me. The report contains a catalog of facts, review and discussion of issues, observations and recommendations. The conducting of

the review and preparing of the report was paid for by Saskatchewan Workers' Compensation Board and the review was conducted on behalf of the Department of Labour.

In my view, the Respondent is justified in declining to provide a copy of the report to the Applicant on the basis of the provisions of Section 16(1)(a) of the *Act*. I am satisfied that the [REDACTED] report contains confidential information that has been assembled for the purpose of providing to Cabinet an analysis of existing situations and recommendations in the area of labour related matters. I do not share the view advanced by the Applicant that Section 16(1) of the *Act* is restricted to documentation generated at meetings of Cabinet; the wording of the provision indicates to me that the documentation reflecting advice, proposals, recommendations, analysis and policy options developed from sources outside of the Executive Council for presentation to the Executive Council are intended to be covered by the provisions of this particular section.

It is my recommendation that the Respondent not provide to the Applicant a copy of the James Dorsey report, at least until it has been considered and dealt with by the Executive Council.

Dated at Regina, in the Province of Saskatchewan, this 10th day of January, 2001.

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