

**REPORT WITH RESPECT TO THE APPLICATION
FOR REVIEW OF [REDACTED] IN RELATION TO INFORMATION
REQUESTED FROM SGI**

[REDACTED] (the "Applicant") of [REDACTED] submitted to SGI (the "Respondent") an Access to Information Application Form, wherein the Applicant requested:

"all supervisor instructions on file and any other documentation not previously sent to me."

The Application was received by SGI on November 7, 2000.

By letter dated January 25, 2001, Mr. Ken Lerner, Access Officer, Freedom of Information of the Respondent, wrote the Applicant as follows:

"Your Application for Access under *The Freedom of Information and Protection of Privacy Act*, received by SGI on November 7, 2000, asks for your file number [REDACTED] including:

'all Supervisor instructions on file and any other documentation not previously sent to me.'

In response to your application and in accordance with Section 168(2) of *The Automobile Accident Insurance Act* Courtney Soderlund, Manager, SGI Bodily Injury North, on December 12, 2000 sent you copies of your complete file with the exception of 'five internal notes of direction'. All five notes of internal direction were forwarded to me by Mr. Soderlund for a decision on whether those notes were exempt from disclosure under *The Freedom of Information and Protection of Privacy Act*.

I have now had an opportunity to review the five notes. All five notes involve either consultations or deliberations between employees of SGI. Section 17(1)(b)(i) of *The Freedom of Information and Protection of Privacy Act* exempts documents involving consultations or deliberations between employees of a government institution (in this case SGI) from disclosure. I am, accordingly, of the view that all five notes of internal direction are exempt from disclosure and were properly withheld.

If you wish to have this decision reviewed, you may do so within one year of this notice. To request a review you must complete a 'Request for Review' form which is available at the same location where you applied for access. Your Request for Review should be directed to:

G.L. Gerrand, Q.C.
Information and Privacy Commissioner
700 – 1914 Hamilton Street
Regina, Saskatchewan
S4P 3N6

Further correspondence on this application should be directed to me at SGI, Legal Department, 14th Floor, 2260 – 11th Avenue, Regina, Saskatchewan, S4P 0J9, telephone Number (306) 751-1221.”

The Applicant filed with me a Request for Review on May 14, 2001. Upon reviewing the materials forwarded to me, I determined that I would carry out a review as requested and so advised the Respondent.

For purposes of carrying out the review, I requested the Respondent, pursuant to the provisions of Section 54(1)(a) of *The Freedom of Information and Protection of Privacy Act*, to provide to me a copy of the five internal notes of direction or memoranda which the Respondent had declined to produce to the Applicant. Copies of these documents were duly forwarded to me by the Respondent and I have had an opportunity to review each of them.

The Respondent relies on Section 17(1)(b) of the *Act* as authority for declining to provide to the Applicant the documents in question. For purposes of this report, I reproduce the provisions of Section 17(1)(b):

“17(1) Subject to subsection (2), a head may refuse to give access to a record that could reasonably be expected to disclose:

- (b) consultations or deliberations involving:
 - (i) officers or employees of a government institution;
 - (ii) a member of the Executive Council; or
 - (iii) the staff of a member of the Executive Council.”

With one exception as discussed hereunder, I have concluded that the withheld memorandum do reflect consultations or deliberations involving employees of the Respondent,

which of course is a government institution. Some of the memorandum reflect the speculation of the preparer as to the state and sufficiency of medical and factual information on hand, the view of the preparer of the memorandum as to the status of the file, and recommendations as to what procedures should or should not be followed in the handling of the file. The contents of these memorandum constitute the very thing that the *Act* protects from production so as to permit government institutions to carry on their affairs in a business-like way.

Adjusters employed by the Respondent and their supervisors must be able to freely and openly communicate in writing respecting all aspects of a personal injury claim. Inter-office memoranda must necessarily deal with the sufficiency of material on file respecting a specific claim, options available to the Respondent and recommendations regarding resolution of issues. These types of communications reflect "consultations or deliberations involving...employees..." of the Respondent and the head of the Respondent may refuse access to them under Section 17 of the *Act*. Without this provision, the employees of the Respondent might be disinclined to reduce to writing their thought processes.

There is one document provided to me which does not fall within the exemptions relied upon under the *Act* by the Respondent, and that is a memorandum prepared by [REDACTED] dated February 7, 1999. This memorandum is a recitation of factual matters solely. It details the nature of the injuries sustained by the Applicant, information received by the Respondent from the physician of the Applicant, certain factual aspects of the circumstances of residency of the Applicant, and detail of discussions entered into between the preparer of the memorandum and the Applicant. There is no indication in the memorandum of any record of consultation or deliberations by employees of the Respondent. In my view, this last mentioned memorandum does not fall into the exemption provisions relied on by the Respondent.

For the reasons outlined above, I recommend the release to the Applicant of a copy of the memorandum of [REDACTED] dated February 7, 1999, and that the Respondent not release to the Applicant the remainder of the memoranda in question.

Dated at Regina, in the Province of Saskatchewan, this 12th day of June, 2001.

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