

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

[1] On August 7, 2001, Saskatchewan Justice (the “Respondent”) received an Access to Information Request Form from ██████████ (the “Applicant”) of Eastend, Saskatchewan. The Applicant requested of the Respondent a record within the possession of the Respondent, which the Applicant described as follows:

“A complaint against Saskatoon Police Chief ██████████ for obstructing an investigation into one (or more) unsolved murders in Saskatoon filed by then police officer ██████████. It was filed in 1998. (There may be other signatures on the complaint.)”

[2] The Access Officer for the Respondent, Mr. John D. Whyte, wrote to the Applicant denying her request for access by letter dated September 5, 2001. The relevant portion of that letter reads as follows:

“Thank you for your Freedom of Information request which was received in this office August 7, 2001, in reference to the complaint made by ██████████

Your request for information has been denied pursuant to the following sections of *The Freedom of Information and Protection of Privacy Act*:

Section 15(1)(a) “A head may refuse to give access to a record, the release of which could: prejudice, interfere with or adversely affect the detection, investigation, prevention or prosecution of an offence or the security of a centre of lawful detention;”

Section 15(1)(c) “...interfere with a lawful investigation or disclose information with respect to a lawful investigation;”

Section 15(1)(k) “...interfere with a law enforcement matter or disclose information respecting a law enforcement matter;”

Section 29(1) “No government institution shall disclose personal information in its possession or under its control without the consent, given in the prescribed manner, of the individual to whom the information relates except in accordance with this section or section 30.”

[3] A Request for Review dated September 18, 2002, was filed with me by the Applicant. She detailed her Request for Review in the following words:

“My interest in this material starts from the unsolved murder of ██████████ ██████████, ██████████, ██████████, in Saskatoon. I want to know why the murder [sic] has not been found. I am told there has always been a suspect & that the police collected DNA evidence in 1962. ██████████ was a high school friend of mine, and I wish to see her, even if 40 years after the murder, receive justice at last.”

[4] After considering the materials forwarded to me, I concluded that there were reasonable grounds to conduct a Review as requested by the Applicant. Section 51 of *The Freedom of Information and Protection of Privacy Act* (the “*Act*”) provides as follows:

“51 Not less than 30 days before commencing a review, the commissioner shall inform the head of:

- (a) the commissioner’s intention to conduct the review; and
- (b) the substance of the application for review.”

[5] In accordance with the provisions of Section 51, I formally advised the Respondent by letter dated October 9, 2001 of my intention to conduct the Review as requested and I advised the Respondent of the substance of the Request for Review of the Applicant.

[6] As mandated by Section 54 of the *Act*, I requested and obtained copies of what is represented to me by the Respondent to be of all of the documentation to which the Applicant seeks access that is within the possession of the Respondent. I have examined the materials in the course of carrying out my Review and I have concluded that copies of the materials need not be released by the Respondent to the Applicant for the reasons outlined hereunder.

[7] The Respondent relies on four provisions of the *Act* as the basis for its refusing to provide the Applicant with copies of the requested materials, which four sections are outlined in the letter of the Respondent to the Applicant of September 5, 2001, hereinbefore quoted. In my opinion, I need only consider two of those sections as a proper basis for supporting the position advanced by the Respondent.

[8] For purposes of discussion, it is appropriate to now repeat the provisions of Section 15(1)(a) and Section 15(1)(c):

- “15(1) A head may refuse to give access to a record, the release of which could:
- (a) prejudice, interfere with or adversely affect the detection, investigation, prevention or prosecution of an offence or the security of a centre of lawful detention;”

[9] By letter dated September 7, 2001 addressed to the Applicant by Superintendent ██████████ of the Saskatoon Police Service, it is clearly asserted that the investigation into the death of ██████████ ██████████ is continuing. Superintendent ██████████ advised the Applicant in his letter as follows:

“This homicide is still open and active. The file was re-investigated a few years ago by a member of the Major Crime Unit and was also recently reviewed by Saskatchewan Justice. The file is still presently assigned to a member of the Major Crime Unit, and I assure you that homicide files remain open until they are successfully concluded.”

[10] The file materials that I have reviewed do contain factual information respecting the crime in question and the manner in which the investigation has been carried forward for many years. Public dissemination of these particulars could, arguably, “prejudice, interfere with or adversely affect the detection (or) investigation” of the crime which occurred so many years ago. This particular subsection gives the Respondent a valid basis for refusing access to the record.

[11] Section 15(1)(c) provides as follows:

“15(1) A head may refuse to give access to a record, the release of which could:
(c) interfere with a lawful investigation or disclose information with respect to a lawful investigation;”

This subsection focuses on the interference with “a lawful investigation” or the disclosure of information with respect “to a lawful investigation”. My review of the materials indicates to me that access to the materials and information reflected in the materials could, in fact, result in the disclosure of information with regard to this on-going investigation and thereby interfere with the successful carrying out of the investigation.

[12] For those reasons, I agree with the views advanced by the Respondent in declining to provide access to the Applicant to the documentation in question and I recommend that the documentation not be provided to the Applicant.

Dated at Regina, in the Province of Saskatchewan, this 18th day of January, 2002.

GERALD L. GERRAND, Q.C.
Commissioner of Information

