

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

[1] [REDACTED] (the “Applicant”) filed an Access to Information Request Form which was received by Saskatchewan Government Insurance (the “Respondent”) on June 4, 2002. The application requested access to file material from a motor vehicle accident in which the Applicant was involved in on May 19, 1970.

[2] The Respondent replied to the Applicant’s request by letter dated June 14, 2002 which read as follows:

“Your application under *The Freedom of Information and Protection of Privacy* [sic] was received in this office on June 4, 2002.

As I understand your application, the record you are asking to access is the file material from a motor vehicle accident that you were involved in on May 19, 1970. This is the same record you asked for in an application under the Act in July of August of 1999 (Application No. [REDACTED]). In response to that request I advised you by letter dated August 11, 1999 that:

“... the documents from your 1970 motor vehicle [sic] are not enclosed. It has been 29 years since that accident. This is beyond the retention period for our files required under The Archives Act. The file from your motor vehicle accident was destroyed.”

We have again conducted a search of our records for a file from your May 19, 1970 motor vehicle accident. Again our efforts to locate the file you are asking to access have been unsuccessful. I can only conclude that if such a file was opened by SGI it has been destroyed. SGI accordingly remains unable to comply with your request.


If I have misunderstood what record you are asking to access please feel free to contact me at the address or telephone number indicated in the closing paragraph of this letter.

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 No. (306) 751-1221.

Yours truly,


Access Officer
Freedom of Information
SGI

[3] On February 5, 2003 I received from the Applicant an envelope addressed to the former Freedom of Information and Privacy Commissioner, Mr. G.L. Gerrand, Q.C. Enclosed in said envelope were various documents mainly of a medical nature, but there was no covering letter enclosed in said envelope. Accordingly, I wrote to the Applicant by letter dated February 5, 2003 as follows:



Dear :

RE:  and SGI
File Reference: F 2003/008 RPR

I today received an envelope addressed to the former Freedom of Information and Privacy Commissioner Mr. G.L. Gerrand, Q.C. and enclosed therein were various documents.

In order for me to proceed with this matter we actually require a Request for Review form authorized under *The Freedom of Information and Protection of Privacy Act*. For your information I am enclosing a copy of the required form which you should complete and thereafter forward the white and yellow copies to myself and retain the pink copy for yourself.

I do note from SGI's letter to you dated June 14, 2002 that certain of the records which you are requesting are no longer available as they refer to an accident which occurred in 1970.

In any event if you have any further have any further questions feel free to contact me.

I shall await to hear further from you.

Yours truly,

Richard P. Rendek, Q.C.
Acting Freedom of Information
and Privacy Commissioner
Province of Saskatchewan."

[4] By letter dated February 7, 2003 the Applicant wrote me the following letter:

"Thank you for your reply, and for sending me the proper forms.

1. I do realize that the May 19, 1970 MVA files may not be available. However, the medical forms copy I sent you was still available at [REDACTED] medical records, as it (the case was never closed.)
2. There was a deal made on my behalf by SGI and [REDACTED] and SGI paid me for several years until I went back to work until 1995. When I was reinjured in MVA, Oct 29/95 while passenger in MV stopped at Red light. This MVA sent me [REDACTED] reinjuring my Rt arm, document sent to you. I also have letter Dec 6/96 from PIRII SG [REDACTED] I stating that reinjury accured [sic] to residual injury from 1970.
3. I was re injured again Oct 30/96, when semi drove over me while I was stopped at Red light – severe reinjury also. Again in Nov 25/97, involving my Rt. shoulder, I was passenger again.

All I want is for SGI to take responsibility for these injurys [sic]. My Rt. Arm, and my Rt. Shoulder that were re injured in 1995, 1996, 1997. MVA's, I do not think this request to be unfair under the circumstances.

I hope you can help me and I thank you for your consiberation [sic].”

[5] Enclosed with the above letter was a Request for Review form which outlined the details of the Applicant's request as follows:

“I have the medical file of injurys [sic] I sustained as passenger in motor vehicle Accident May 19, 1970. Which were mailed to you. I have documentation from SGI PIRII [REDACTED] Dated Dec 6/96 with regard to re injury to residual injury Rt. arm and Rt. shoulder – also in closed two Documents re shoulder, arm, which I would like to have SGI – take responsibility for since they were MVAs and I worked since 1970 MVA. Until MVA's 95,96, 99, where I was passenger in all MVAs.”

[6] As the Applicant's request was unclear as to just exactly what records she was requesting I wrote to her by letter dated February 13, 2003 as follows:

“Thank you for your letter of February 7th which I just received today.

I should firstly point out that I can have no involvement with regard to your claim with SGI.

My authority is limited to reviewing documents or records to which you have been denied access to determine whether or not you should have been granted access to these records or documents.

Unfortunately I can not determine from your Request For Review exactly what documents or records it is that you are requesting. Would be you be good enough to spell out for me exactly what records or documents you are requesting from SGI to which you have been denied access. I will then contact SGI and obtain these documents from them in order that I might view them and make a recommendation as to whether or not the denial of access was justified.

Please feel free to contact me if you have any questions in this regard.”

[7] I then received from the Applicant a letter dated February 16, 2003 which read as follows:

“Thank you for your letter of February 13m 2003, I fully understand your situation, and apologize for not being clear.

So to make it clear, I require the copy file of May 19, 1970. Motor vehicle accident which left me comatose for a period of time while in [REDACTED] ICU. I require the SGI number of that file as it was handeled [sic] by SGI in agreement, with my fathers lawyer, [REDACTED] and has impact for re injury of those injurys [sic] in present SGI MVA's now going under hearing by the Automobile Injury Commission – Date not set yet. However, I understand May 19, 1970 has never been closed. I have medical files on this accident from [REDACTED] which still holds the medical files. So I asked [REDACTED] of SGI and he states there are no coppies [sic]; my question is how can there be no coppies [sic] when the file is still open? Also I request access to SGI files: SI [REDACTED] MVA Oct 29, 1995, and SI [REDACTED] MVA's Oct 30, 1996 & November 25/97. [REDACTED] sent letter dated Feb 13/03 stating some of the file coppies [sic] have been released pursuant to section 165(2) of the Automobile Accident Insurnce Act with exception of of [sic] following information

- 6 documents concerning inquiries made through SGI's customer support unit
- 11 documents concerning direction and discussion among SGI staff – with also a copy of my Workers Compensation file. The WCB file I have most of and and [sic] will contact CSR for the rest

However, I would like you to access the SGI documents listed above because I may need this information to appeal before the Commission as I was passenger in all MVAs and was badly injured in both WCB work related accident and MVAs and since it has bearing on reinjury of injurys [sic] of May 19/70, it all has bearing on each other and bearing on my request for your help and insight. Thank you; I hope this helps. Please note May 1970 MVA was under maiden name [REDACTED]”

[8] Upon receipt of the above letter I wrote to the Respondent on February 25, 2003 as follows:

“SGI Legal Department
14th Floor, 2260 – 11th Avenue

Regina, Saskatchewan
S4P 2J6

Attention: [REDACTED] Access Officer

Dear Sir:

RE: [REDACTED] and SGI
Application no. SGI [REDACTED]
File Reference: F 2003/008 RPR

On February 5, 2003 I received an envelope addressed to the former Freedom of Information and Privacy Commissioner in which was enclosed various documents including your letter to the applicant dated June 14, 2002. I enclose herewith a copy of said letter.

I also enclose herewith copies of the following:

1. Letter from the applicant to myself dated February 7, 2003;
2. Copy of Request for Review enclosed in the above letter;
3. Letter from myself to the applicant dated February 13, 2003;
4. Letter of Response from the applicant to myself dated February 16, 2003.

Would you be good enough to provide me with copies of the documents to which you are denying access together with your reasons for denying same. If you have difficulty in determining exactly which documents the applicant is requesting, please feel free to contact her directly. There appears to be some confusion as to what documents are in fact contained in her file.

This request is made pursuant to the provisions of the *Freedom of Information and Protection of Privacy Act*. I shall await your response.

Yours truly,

Richard P. Rendek, Q.C.
Acting Freedom of Information
and Privacy Commissioner
Province of Saskatchewan"

[9] The Respondent replied by letter dated March 5, 2003 which stated:

"Thank you for your letter of February 25, 2003 requesting copies of document to which SGI is denying [REDACTED] access along with our reasons for such denial.

SGI has two files on [REDACTED] (99-P-39 and 02-P-22) relating to applications made by her under *The Freedom of Information and Protection of Privacy Act* for file documents in connection with motor vehicle accidents occurring on May 19, 1970, October 29, 1995 (File: SI [REDACTED]) and October 30, 1996 (File: SI [REDACTED]). In both applications [REDACTED] requested copies of SGI injury file documents from her May 19, 1970 motor vehicle accident. In her first application ([REDACTED]), [REDACTED] in addition to requesting the file documents from the May 19, 1970 motor vehicle accident, also asked for the file documents from her October 29, 1995 and October 30, 1996 motor vehicle accidents. Copies of [REDACTED] self explanatory letters to [REDACTED] dated respectively August 11, 1999 and June 14, 2002 responding to the two applications are enclosed.

If I correctly understand [REDACTED] February 16, 2003 letter to you, she is asking you firstly, to assist her in obtaining the file documents from her May 19, 1970 motor vehicle accident and secondly to review 17 documents withheld from her by [REDACTED] SGI Manager, Saskatoon Injury Claims and which she requires in order to proceed with an appeal from the decision of SGI terminating her injury benefits under Part VIII of *The Automobile Accident Insurance Act* to the newly created Automobile Injury Appeal Commission.

As explained by [REDACTED] in both his letters to [REDACTED] SGI is unable to comply with her request for the file documents from her May 19, 1970 motor vehicle accident because the file, including of course, the file documents have been destroyed.

To assist [REDACTED] in preparing for her appeal to the Appeal Commission, [REDACTED] on February 13, 2003 wrote to [REDACTED] enclosing copies of the documents from both her injury files SI [REDACTED] and SI [REDACTED] withholding only 17 documents; 6 concerning inquiries made through SGI's customer support unit and 11 concerning direction and discussion among SGI staff. [REDACTED] also withheld documents from [REDACTED] Workers' Compensation Board file suggesting to [REDACTED] that if she wanted those documents she request them from the Board. [REDACTED] does not seem to be asking you to review SGI's decision on the WCB documents. She acknowledges that she has copies of some of the WCB documents and in her February 16th letter to you says that she contacted CSR (?) for the rest of the Board documents.

I have reviewed the 17 documents withheld by [REDACTED] to decide whether all or any of the documents are exempt from disclosure to [REDACTED]

██████ under *The Freedom of Information and Protection of Privacy Act*. Based on my review of those documents, I am of the opinion that with the exception of two of the documents, 15 of the documents could reasonably be expected to disclose consultations or deliberations involving employees of a government institution and are exempt from disclosure by section 17(1)(b)(i) of *The Freedom of Information and Protection of Privacy Act*. Copies of the 15 documents withheld from ██████ by ██████ are enclosed for your review.

I have this date forwarded the two disclosable documents to ██████

I look forward to receiving your decision.”

[10] I forwarded a copy of the Respondent’s letter to the Applicant on March 14, 2003 and on March 17, 2003 I discussed with the Applicant by telephone details of her application and the procedure to be followed.

[11] In the Respondent’s letter of March 5, 2003 they enclosed copies of the documents to which access by the Applicant has been denied. As set out in said letter, the denial is made pursuant to Section 17(1)(b)(i) of *The Freedom of Information and Protection of Privacy Act* which reads as follows:

“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;
 ...”

[12] I have now reviewed the records to which access has been denied and they consist of the following 15 items:

1. Handwritten file memo dated Sept 15, 1997 outlining telephone attendances by ██████
2. 2 page memo dated Sept 17, 1997 from ██████ of SGI to ██████
██████ of SGI outlining background and current status of Applicant’s claim

3. Fax dated June 11, 1998 from [REDACTED] of SGI to [REDACTED] of SGI enclosing info sheets on cases for review by coverage committee
4. File memorandum dated June 26, 1998 entitled "injury note" created by [REDACTED] of SGI and addressed to [REDACTED] SGI Adjuster
5. Letter dated July 27, 1998 from [REDACTED] of SGI to [REDACTED] of SGI in which Applicant's claim is reviewed
6. File memorandum dated Oct 9, 1998 entitled "injury note" created by [REDACTED] of SGI and addressed to [REDACTED] SGI Adjuster
7. 2 page memo dated June 3, 2000 from [REDACTED] of SGI to [REDACTED] of SGI outlining background issues of Applicant's claim
8. Memo dated June 3, 2000 from [REDACTED] of SGI to [REDACTED] of SGI as an addition to memo outlined above (document 7)
9. 2 page memo from [REDACTED] of SGI to [REDACTED] of SGI dated June 3, 2000 acknowledging receipt of document No. 7 and commenting thereon
10. Undated memo from [REDACTED] of SGI to [REDACTED] of SGI enclosing copy of document No. 7
11. Document entitled "file review" dated October 15, 2001 created by [REDACTED] of SGI addressed to [REDACTED] SGI Adjuster
12. Handwritten memo dated Mar ½ with no addressee and signed by [REDACTED]
13. File memorandum entitled "injury note" created June 5, 2002 by [REDACTED] of SGI and addressed to [REDACTED] SGI Adjuster
14. Undated memo from [REDACTED] of SGI to [REDACTED] of SGI reviewing issues re Applicant's claim
15. Further undated memo from [REDACTED] of SGI to [REDACTED] of SGI re additional issues of claim

[13] All of the documents in question are internal faxes, memoranda, letters or e mails between employees of the Respondent respecting the status of the Applicant's claim and they all contain particulars of discussions by employees of the Respondent regarding their review of the Applicant's file, notes regarding her injuries, a background of the claim and updates respecting the status of the Applicant's claim.

[14] I am of the view that all of the documents in question can be categorized as consultations or deliberations involving officers or employees of a government institution and as such they clearly fall within the ambit of Section 17(1)(b)(i) and according are exempt from disclosure.

[15] In summary, therefore, I would recommend that the Respondent continue to deny access to the Applicant to the records in question.

[16] Dated at Regina, in the Province of Saskatchewan, this 21st day of March, 2003.

RICHARD P. RENDEK, Q.C.
Acting Commissioner of Information
and Privacy for Saskatchewan