



Office of the  
Saskatchewan Information  
and Privacy Commissioner

## **REVIEW REPORT 045-2025**

### **Ministry of Justice and Attorney General**

**September 30, 2025**

#### **Summary:**

The Applicant submitted a formal access to information request under *The Freedom of Information and Protection of Privacy Act (FOIP)* to the Ministry of Justice and Attorney General (Justice) for records that were redacted from disclosure by the Crown. Justice identified 81 pages that were responsive to the Applicant's access request. Justice partially redacted portions of 54 pages pursuant to sections 21 (danger to health or safety) and 29(1) (personal information) of *FOIP*. It then withheld, in full, the remaining 27 pages pursuant to sections 13(1)(a) (records from Government of Canada), 15(1)(c) (lawful investigations), (k) (law enforcement) and 29(1) of *FOIP*. The Applicant requested a review by the Office of the Saskatchewan Information and Privacy Commissioner.

The Deputy Commissioner made several findings, including that Justice properly applied section 29(1) of *FOIP* to pages 1 to 54 and section 15(1)(c) of *FOIP* to pages 55 to 59 and 63 to 81. However, the Deputy Commissioner found that Justice did not meet the legislated timeline pursuant to section 7 of *FOIP* to respond to the Applicant's access request. The Deputy Commissioner also found that *FOIP* does not apply to pages 60 to 62 pursuant to section 3(1)(b) of *FOIP*.

The Deputy Commissioner recommended that Justice release pages 60 to 62 to the Applicant within 30 days of issuance of this Report. The Deputy Commissioner also recommended that Justice continue to withhold the phone numbers that appear on pages 1 to 54 pursuant to section 29(1) of *FOIP* and to continue to withhold pages 55 to 59 and 63 to 81 pursuant to section 15(1)(c) of *FOIP*.

## **I BACKGROUND**

[1] The Commissioner has identified a potential conflict with this review. The Commissioner has taken no part in this review and has delegated all decision-making regarding this review to the Deputy Commissioner.

[2] On July 22, 2024, the Applicant sent an email to the Communications Branch of the Ministry of Justice and Attorney General (Justice). Within the body of the email, the Applicant said:

I am requesting a FOIP for my disclosure that was redacted...

[3] The Applicant attached a copy of their access request on the prescribed form.<sup>1</sup>

[4] After not receiving a response, the Applicant sent another email dated August 30, 2024 to the Communications Branch of Justice.

[5] Then, on September 4, 2024, the Communications Branch of Justice forwarded the Applicant's access request to the Director, Access to Information & Records Management at Justice.

[6] The Applicant's access request was worded as follows:

Protected "B" Form Page 1 and Page 3 of my disclosure  
"Defense Counsel File Inventory Report for [file number]"<sup>2</sup>  
- Redacted information within my disclosure.

[7] The Applicant specified the time period for the records to be September 23, 2023 to May 1, 2024.

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<sup>1</sup> Section 5 and Form A of Part II of the Appendix of [\*The Freedom of Information and Protection of Privacy Regulations\*](#), c. F-22.01 Reg 1 (April 1, 1992), as amended.

<sup>2</sup> The words in the square brackets are OIPC's amendments to preserve the identity of the Applicant or any other party involved in the matter.

[8] On September 4, 2024, Justice emailed the Applicant requesting that a telephone call be set up to clarify the access request. The call took place on September 6, 2024.

[9] On September 17, 2024, Justice emailed the Applicant its understanding of the clarified access request:

I'm following up on the phone call we had to clarify your request details.

In your original access to information request you were seeking:

“Protected “B” Form Page 1 and Page 3 of my disclosure  
“Defense Counsel File Inventory Report for [file number]”<sup>3</sup>”  
- Redacted information within my disclosure. September 23, 2023 - May 1, 2024”

After our phone conversation the clarified details of your request are:

“Protected “B” Form Page 1 and Page 3 of my disclosure  
“Defense Counsel File Inventory Report for [file number]”  
- Redacted information within my disclosure. September 23, 2023 - May 1, 2024 – only from page 1 and page 3.  
Ministry phone records of [Name of Crown prosecutor] from September 23, 2023 - May 1, 2024.

Please advise if this is correct so that we can proceed with your request.

[10] On the same day, the Applicant responded as follows:

Yes these are the pages I would like of my disclosure.

[11] The Applicant did not receive a response to their access request from Justice and so reached out to the Office of the Saskatchewan Information and Privacy Commissioner (OIPC) on January 5, 2025 about this.

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<sup>3</sup> The words in the square brackets are OIPC's amendments to preserve the identity of the Applicant or any other party involved in the matter.

- [12] On January 6, 2025, OIPC opened file 001-2025 to review the lack of a response by Justice to the Applicant.
- [13] Between January 10, 2025 and February 7, 2025, there was communication between OIPC and Justice regarding when Justice would be providing its section 7 decision to the Applicant. As Justice had not issued its section 7 decision to the Applicant by February 7, 2025, OIPC sent notice of a review to the Applicant and Justice on that date. At issue was whether Justice responded to the Applicant within the legislated timeline pursuant to section 7 of *The Freedom of Information and Protection of Privacy Act (FOIP)*.<sup>4</sup>
- [14] Then, in a letter dated February 24, 2025, Justice responded to the Applicant. Justice provided access to some records but withheld others, in part or in full, pursuant to sections 13(1)(a), 15(1)(c), (k), 21 and 29(1) of *FOIP*.
- [15] On February 25, 2025, OIPC advised the Applicant by email that as they had received a response from Justice, OIPC would close file 001-2025 in relation to the deemed refusal but could still review the lateness of the response from Justice. OIPC added that it could also review the exemptions Justice had applied.
- [16] On February 27, 2025, the Applicant responded to OIPC indicating that they would like OIPC to proceed on this basis. OIPC confirmed the scope with the Applicant on March 18, 2025, and OIPC opened file 045-2025 in relation to this review.
- [17] On April 8, 2025, OIPC sent notice of its review to the Applicant and Justice.
- [18] On April 28, 2025, the Applicant provided their submission to OIPC.
- [19] On May 8, 2025, Justice provided the records at issue to OIPC.

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<sup>4</sup> [\*The Freedom of Information and Protection of Privacy Act\*](#), SS, 1990-91 c F-22.01, as amended.

- [20] On July 10, 2025, Justice provided its submission to OIPC. Justice specified that the submission was not to be shared with other parties to this review.

## **II RECORDS AT ISSUE**

- [21] There are 81 pages of records at issue withheld in full or in part.
- [22] Pages 1 to 18 are mobility phone bills. Justice only withheld the mobile numbers that appear on the mobile phone bills pursuant to sections 21 and 29(1) of *FOIP*.
- [23] Pages 19 to 54 are bills for telephones used by Crown Prosecutors. Justice withheld only the telephone numbers that appear on the telephone bills pursuant to sections 21 and 29(1) of *FOIP*.
- [24] Pages 55 to 81 are documents that Justice said it obtained from the Royal Canadian Mounted Police (RCMP). Justice withheld these pages, in full, pursuant to sections 13(1)(a), 15(1)(c), (k) and 29(1) of *FOIP*.

## **III DISCUSSION OF THE ISSUES**

### **1. Does OIPC have jurisdiction?**

- [25] Justice qualifies as a “government institution” pursuant to section 2(1)(d)(i) of *FOIP*. Therefore, OIPC has jurisdiction to undertake this review pursuant to PART VI of *FOIP*.

### **2. Did Justice respond to the Applicant’s access to information request within the legislated timeline?**

- [26] Section 7(2) of *FOIP* requires that government institutions respond to access requests within 30 days:

7(2) The head shall give written notice to the applicant within 30 days after the application is made:

- [27] Section 12 of *FOIP* provides that government institutions can extend the initial 30-day response period by a maximum of 30 additional days in certain circumstances. In total, government institutions must respond to access requests within 60 days of receiving the access request.
- [28] As described in the Background section of this Report, the Applicant first emailed their access request to the Communications Branch of Justice on July 22, 2024. Forty-four days later, on September 4, 2024, the Communications Branch forwarded the access request to the Director, Access to Information & Records Management. Then, on September 17, 2024, Justice clarified with the Applicant the scope of their access request and received confirmation from them.
- [29] On February 24, 2025, which was 160 days after clarifying the scope, Justice responded to the Applicant's access request. This was well beyond the 30 days *FOIP* required it to provide a response. This is an excessive delay in responding to an access request.<sup>5</sup> There will be a finding that Justice did not meet the legislated timeline pursuant to section 7 of *FOIP* to respond to the Applicant's access request. Regardless of the reasons, Justice, as are all other government institutions, is required to comply with the timelines in *FOIP*.

### **3. Does *FOIP* apply to pages 60 to 62?**

- [30] Justice refused access to pages 60 to 62 of the records at issue pursuant to sections 13(1)(a), 15(1)(c), (k) and 29(1) of *FOIP*. Pages 60 to 62 of the records at issue contain an Information completed by an RCMP Constable (Form 2 of the *Criminal Code*) and an

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<sup>5</sup> This is not the first instance in which a response from Justice to an access request is excessively delayed. In [Review Report 126-2020, 185-2020](#), it took 170 days for Justice to respond to an access request. In [Review Report 197-2020](#), it had been more than 285 days and Justice still had not responded to the access request.

Undertaking (Form 10 of the *Criminal Code*).<sup>6</sup> The Provincial Court of Saskatchewan, in its document *Public Access to Court Records in Saskatchewan: Guidelines for the Media and the Public*,<sup>7</sup> provides that such documents are publicly available, when confirmed:

### **Information Prior to First Appearance**

**Q.** A request is received for an Information prior to the first appearance in court. When can it be provided?

**A.** Where an Information is sworn and there is proof on file that the documents requiring the accused's attendance have been confirmed, or issued and served, access to the Information can be provided prior to the first appearance.

*Examples:*

Where the accused was served with an appearance notice or promise to appear, access to the information can be provided when the court office receives the appearance notice or promise to appear which has been confirmed by the justice of the peace.

Where a summons was ordered, when the court office is provided with a copy of the affidavit of service of the summons, access to the information can be provided.

Where an arrest warrant was authorized, when the court office receives notification that the warrant was executed, access to the information can be provided.

[Emphasis added]

[31] Upon examination by OIPC, the Information (at page 60) was confirmed by a Justice of the Peace. As such, pages 60 to 62 of the records at issue are court records that are a matter of public record. Section 3(1)(b) of *FOIP* provides:

3(1) This Act does not apply to:

...

(b) material that is a matter of public record;

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<sup>6</sup> [\*Criminal Code\*](#), RSC 1985, c. C-46, as amended.

<sup>7</sup> Courts of Saskatchewan, [\*Public Access to Court Records in Saskatchewan: Guidelines for the Media and the Public\*](#), 2024, at page 30.

[32] There will be a finding that *FOIP* does not apply to pages 60 to 62 pursuant to section 3(1)(b) of *FOIP*. As such, Justice cannot refuse access to these pages pursuant to sections 13(1)(a), 15(1)(c), (k) or 29(1) of *FOIP*. There will be a recommendation that Justice release pages 60 to 62 to the Applicant within 30 days of issuance of this Report.

**4. Did Justice properly apply section 15(1)(c) of *FOIP*?**

[33] Justice applied section 15(1)(c) of *FOIP* to refuse access to pages 55 to 81 of the responsive records, in full, from the Applicant. OIPC has already found that *FOIP* does not apply to pages 60 to 62, so those pages will not be considered in this analysis of the application of section 15(1)(c) of *FOIP* by Justice.

[34] Section 15(1)(c) of *FOIP* provides:

**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;

[35] OIPC uses the following two-part test to determine if section 15(1)(c) of *FOIP* applies:<sup>8</sup>

1. Does the government institution's activity qualify as a "lawful investigation"?
2. Does one of the following exist?
  - a) Could the release of the information interfere with a lawful investigation?
  - b) Could the release disclose information with respect to a lawful investigation?

[36] Below is an analysis to determine if the two-part test is met.

***1. Does the government institution's activity qualify as a "lawful investigation"?***

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<sup>8</sup> See OIPC [Review Report 182-2024](#) at paragraph [65].



[37] *FOIP* does not define the term “lawful investigation”. In past reports, OIPC has described a “lawful investigation” as an investigation that is authorized or required and permitted by law.<sup>9</sup> The government institution should identify the legislation under which the investigation is conducted. The investigation can be concluded, active and ongoing, or be occurring in the future.

[38] In its submission, Justice did not explain whether the activity documented within the records pertains to a lawful investigation conducted by RCMP.<sup>10</sup> However, upon review, the activity engaged in by RCMP as documented in pages 55 to 59 and 63 to 81 qualifies as a “lawful investigation” of an offence under sections 264.1(b) and (c) of the *Criminal Code*. These pages include RCMP occurrence summary, RCMP Officer’s notes, a Prosecutor’s Information Sheet (prepared by RCMP and contains information about the lawful investigation), RCMP General Report, RCMP Supplementary Occurrence Report, RCMP Disclosure Checklist and a Canadian Police Information Centre (CPIC) Response Report. In past reports, including [Review Report 066-2020](#), OIPC has found that an investigation into an offence under the *Criminal Code* qualifies as a lawful investigation.<sup>11</sup> Pages 55 to 59 and 63 to 81 meet the first-part of the two-part test.

**2. Does one of the following exist?**

**a) Could the release of the information interfere with a lawful investigation?**

**b) Could the release of the information disclose information with respect to a lawful investigation?**

[39] Section 15(1)(c) of *FOIP* uses the word “could” and not “could reasonably be expected to” as is used in other provisions of *FOIP*. The threshold for “could” is somewhat lower than

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<sup>9</sup> *Ibid* at paragraph [66].

<sup>10</sup> At paragraph [25] in [Leo v. Global Transportation Hub Authority, 2019 SKQB 150](#), Kalmakoff J.A. said section 15(1) of *FOIP* is not limited to investigations involving only the government institution.

<sup>11</sup> See OIPC [Review Report 066-2020](#) at paragraphs [14] and [15].

a reasonable expectation – the requirement being only that release “could” have the specified result. There does not need to be a likelihood of a happening, but only an objective possibility, or a possibility based on facts.<sup>12</sup>

[40] Further, OIPC has defined the phrase “with respect to” as having the widest possible scope.<sup>13</sup>

[41] In its submission, Justice said:

It is submitted by the Ministry that the contents of records 19-29 show that they clearly relate to the conduct of a lawful investigation and disclose information related to it. Therefore, the Ministry submits that s. 15(1)(c) has been properly applied to the records.

[42] Since Justice is arguing that the disclosure of the records could disclose information related to a lawful investigation, there is no need to consider whether the release of the information could *interfere* with the lawful investigation.

[43] Upon review, the release of the information within pages 55 to 59 and 63 to 81 could disclose information with respect to the lawful investigation undertaken by RCMP. As such, pages 55 to 59 and 63 to 81 meet the second part of the two-part test for section 15(1)(c) of *FOIP*. There will be a finding that Justice properly applied section 15(1)(c) of *FOIP* to pages 55 to 59 and 63 to 81 and a recommendation that it continue to withhold these pages pursuant to section 15(1)(c) of *FOIP*.

[44] Since this office has found that section 15(1)(c) of *FOIP* applies to pages 55 to 59 and 63 to 81, there is no need to consider if sections 13(1)(a), 15(1)(k) or 29(1) of *FOIP* apply to these pages.

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<sup>12</sup> [Saskatchewan Government Insurance v Giesbrecht, 2025 SKCA 10](#) at paragraphs [73] and [80]. In this ruling the Court of Appeal considered the word “could” within the context of section 38(1)(f) of [The Health Information Protection Act](#), SS 1999, c. H-0.021, as amended, but the substance of the meaning is relevant to this analysis; See also OIPC [Review Report 063-2025](#) at paragraph [28].

<sup>13</sup> See OIPC [Review Report 063-2025](#) at paragraph [29].

**5. Did Justice properly apply section 29(1) of *FOIP*?**

[45] OIPC has already found that Justice properly applied section 15(1)(c) of *FOIP* to pages 55 to 59 and 63 to 81, and that *FOIP* does not apply to pages 60 to 62. OIPC need only consider whether section 29(1) of *FOIP* applies to the mobile and telephone numbers that were redacted on pages 1 to 54.

[46] Section 29(1) of *FOIP* provides:

**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.

[47] Section 29(1) of *FOIP* is a mandatory exemption. This office has held in the past that to properly apply section 29(1) of *FOIP*, the information in question must first be found to qualify as “personal information,” as defined by section 24(1) of *FOIP*.<sup>14</sup>

[48] Section 24(1)(e) of *FOIP*, which is relevant in this review, provides:

**24(1)** Subject to subsections (1.1) and (2), “**personal information**” means personal information about an identifiable individual that is recorded in any form, and includes:

...

(e) the home or business address, home or business telephone number or fingerprints of the individual;

[49] In its submission, Justice said:

Subsection 29(1) of *FOIP* was applied to portions of the records 1 – 18. Section 24(1) provides a non-exhaustive list of the types of information that is considered personal information. Subsection 24(1)(e) of *FOIP* includes “the home or business address, home or business telephone number or fingerprints, of an individual”.

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<sup>14</sup> See OIPC [Review Report 255-2024](#) at paragraphs [19] to [21].

Phone number details were redacted as disclosing phone numbers whose owners are unknown to the Ministry would be a breach of the privacy of another individual, witness, complainant, lawyer or police officer who are not the Applicant in this matter.

[50] Upon review, the redacted telephone numbers on the mobility bills on pages 1 to 18 are the mobility phone number of a Crown Prosecutor as well as another telephone number that is used to retrieve voicemails (voicemail number). These numbers are not publicly available. Similarly, the redacted portions on pages 19 to 54 appear to be telephone numbers used by Crown Prosecutors. I note, though, that these phone numbers are not listed publicly on the [Government of Saskatchewan Directory](#). In [Schiller v Saskatchewan \(Education\), 2025 SKKB 146](#), Mitchell J. found that business or personal contact information of public servants qualifies as personal information as defined by sections 24(1)(e) and (k) of *FOIP*. Government institutions are to only disclose business phone numbers if they are publicly available.<sup>15</sup> In this case, the phone numbers that appear on pages 1 to 54 are not publicly available. As such, there will be a finding that Justice properly applied section 29(1) of *FOIP* to pages 1 to 54.

[51] There will be a recommendation that Justice continue to withhold the phone numbers that appear on pages 1 to 54 pursuant to section 29(1) of *FOIP*.

[52] There is no need to consider the application of section 21 of *FOIP* to pages 1 to 54.

#### **IV FINDINGS**

[53] OIPC has jurisdiction to undertake this review.

[54] Justice did not meet the legislated timeline pursuant to section 7 of *FOIP* to respond to the Applicant's access request.

[55] *FOIP* does not apply to pages 60 to 62 pursuant to section 3(1)(b) of *FOIP*.

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<sup>15</sup> [Schiller v Saskatchewan \(Education\), 2025 SKKB 146](#) at paragraphs [32] to [34].

[56] Justice properly applied section 15(1)(c) of *FOIP* to pages 55 to 59 and 63 to 81.

[57] Justice properly applied section 29(1) of *FOIP* to pages 1 to 54.

## **V RECOMMENDATIONS**

[58] I recommend that Justice release pages 60 to 62 to the Applicant within 30 days of issuance of this Report.

[59] I recommend that Justice continue to withhold the phone numbers that appear on pages 1 to 54 pursuant to section 29(1) of *FOIP*.

[60] I recommend that Justice continue withhold pages 55 to 59 and 63 to 81 pursuant to section 15(1)(c) of *FOIP*.

Dated at Regina, in the Province of Saskatchewan, this 30<sup>th</sup> day of September, 2025.

Diane Aldridge, Deputy Commissioner for  
Grace Hession David, Saskatchewan Information and Privacy Commissioner