



## REVIEW REPORT 077-2025

### Saskatchewan Government Insurance

September 18, 2025

#### Summary:

The Applicant submitted an access to information request to Saskatchewan Government Insurance (SGI). SGI released six pages of records in full and advised that access to other records was refused pursuant to section 7(2)(e) (written notice that the record does not exist) of *The Freedom of Information and Protection of Privacy Act (FOIP)*. The Applicant requested a review by the Office of the Saskatchewan Information and Privacy Commissioner with respect to how SGI concluded that some of the requested records do not exist.

The Commissioner found that SGI conducted a reasonable search for records and recommended that SGI take no further action regarding the search for records.

#### I BACKGROUND

[1] On March 27, 2025, Saskatchewan Government Insurance (SGI) received an access to information request from the Applicant for "...records/documentation from my auto claim in 1997."

[2] In its section 7 decision, dated April 4, 2025, SGI advised the Applicant that access to some of the requested records was refused pursuant to section 7(2)(e) of *The Freedom of Information and Protection of Privacy Act (FOIP)*.<sup>1</sup> SGI added that it had "discovered that your file was destroyed in 2001 in accordance with our retention schedule... Attached are six pages of documentation currently associated with your Auto Claim File."

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<sup>1</sup> [\*The Freedom of Information and Protection of Privacy Act\*](#), SS 1990-91, c. F-22.01, as amended.

[3] On April 8, 2025, the Applicant emailed the Office of the Saskatchewan Information and Privacy Commissioner (OIPC) a completed request for review form indicating: “I have been notified that the record does not exist/cannot be found.”

[4] On June 2, 2024, OIPC asked SGI if it could provide details leading to the conclusion that the records do not exist and a copy of its records retention policy. On June 5, 2025, SGI forwarded an email from its Director, Information Management (“Director”), that included screenshots of the Applicant’s auto claim file from its File Management system and a relevant portion of its *SGI Records Classification and Retention Schedule*. The email from the Director provided as follows:

SGI has a central location for storing and managing all physical claim files. When a claim is closed it is sent in for storage. When claims are received for storage they are logged into the system, as is indicated in the File Management screenshot below. Whenever a file is removed it is logged to track the date and action. In this case the action is to destroy which means the file was completely destroyed.

...

In this case, other SGI offices were not search as we already have evidence of the claim being received for storage and then removed for destruction. We do not have a certification of destruction for this file.

[5] On June 9, 2024, with permission from SGI, OIPC shared the Director’s response with the Applicant inquiring if the additional explanation from SGI satisfied their concerns. On the same day, the Applicant responded requesting OIPC proceed with a review. The next day, this office notified both SGI and the Applicant that a review would proceed.

[6] On June 23, 2025, OIPC received a submission from the Applicant. On July 9, 2025, OIPC received a submission from SGI; SGI did not consent to sharing the submission with the Applicant.

## II RECORDS AT ISSUE

[7] There are no records at issue as this is a review to determine whether SGI has conducted a reasonable search for records.

## III DISCUSSION OF THE ISSUES

### 1. Does OIPC have jurisdiction?

[8] SGI qualifies as a “government institution” as defined at section 2(1)(d)(ii) of *FOIP*. SGI is also listed as a prescribed institution pursuant to section 2(1)(d)(ii) of *FOIP* in section 3, PART I of the Appendix to *The Freedom of Information and Protection of Privacy Regulations (FOIP Regulations)*.<sup>2</sup>

[9] The notice from this office also included a reference to *The Health Information Protection Act (HIPA)* because of the nature of the documents in question.<sup>3</sup> Therefore, it must first be considered if *HIP A* is engaged. The first of three considerations is whether SGI qualifies as a “trustee,” which it does as defined at section 2(1)(t)(i) of *HIP A*. The next two considerations are whether the records in question involve personal health information, and whether the personal health information is in the custody or control of the trustee.

[10] In this case, SGI notified this office that the records it did manage to locate do not contain personal health information as defined by section 2(1)(m) of *HIP A*. Upon review of these records, we confirm this is the case. There is also no evidence that personal health information would have existed in the records SGI claims to have destroyed pursuant to its records retention policy. Since personal health information is not a factor in this analysis, *HIP A* is not engaged and is now removed from further consideration.

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<sup>2</sup> [The Freedom of Information and Protection of Privacy Regulations](#), c. F-22.01 Reg 1 (April 1, 1992), as amended.

<sup>3</sup> [The Health Information Protection Act](#), SS 1990-91, c. H-0.021, as amended.

[11] Because *FOIP* is engaged, and there are reviewable grounds as noted in the notice of review, OIPC has jurisdiction and is undertaking a review of this matter pursuant to PART VII of *FOIP*.

**2. Did SGI conduct a reasonable search for responsive records?**

[12] Section 5 of *FOIP* provides an applicant with a right of access to records in the possession or control of a government institution. It states:

5 Subject to this Act and the regulations, every person has a right to and, on an application made in accordance with this Part, shall be permitted access to records that are in the possession or under the control of a government institution.

[13] The section 7 decision from SGI indicated that access to some of the requested records was refused. SGI cited section 7(2)(e) of *FOIP* and reasoned that since the records had been destroyed with the passage of time, they no longer existed. Section 7(2)(e) of *FOIP* provides as follows:

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

...

(e) stating that access is refused for the reason that the record does not exist;

[14] The Applicant was not satisfied with this response leaving this office to consider whether SGI conducted a reasonable search in reaching its conclusion that the records do not exist. Regarding the obligation to search for records, the threshold to be met is one of “reasonableness.” In other words, it is not a standard of perfection, but rather what a fair and rational person would expect or consider acceptable.<sup>4</sup>

[15] There are two circumstances where a government institution can validly claim the non-existence of a record pursuant to *FOIP*. The first circumstance is if a record exists, but it is not in the possession or control of the government institution to whom the request was

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<sup>4</sup> See OIPC [Review Report 338-2023](#) at paragraph [38].

made. If a government institution considers that another government institution has a greater interest in the record and actual possession or control of the record, then the government institution should transfer the access request in accordance with section 11 of *FOIP*. This consideration is irrelevant since there was no transfer of the records on these facts.

[16] The second circumstance that validates a claim of the non-existence of records is if a reasonable search failed to produce records. The threshold of “reasonableness” is met when the government institution expends a level of effort expected of any fair, sensible person searching areas where records are likely to be stored. A government institution may resort to the following avenues in its effort to search for records:<sup>5</sup>

- For personal information requests – explain how the individual who is the subject of the personal information is involved with the government institution (i.e., client, employee, former employee, etc.) and why certain departments/divisions/branches were included in the search.
- For general requests – tie the subject matter of the request to the departments/divisions/branches included in the search. In other words, explain why certain areas were searched and not others.
- Identify the employee(s) involved in the search and explain how the employee(s) is experienced in the subject matter.
- Explain how the records management system is organized (both paper & electronic) in the departments/divisions/branches included in the search.
- Describe how records are classified within the records management system. For example, are the records classified by alphabet, year, function, subject.
- Consider providing a copy of the organization’s record schedule and screen shots of the electronic directory (folders & subfolders).
- If the record has been destroyed, provide copies of record schedules and/or destruction certificates.
- Explain whether records stored off-site were searched and if not, explain why.

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<sup>5</sup> See OIPC [Review Report 048-2025](#) at paragraph [30].

- Explain whether records that are in the government institution’s control but also in the possession of a third party were searched and how. Third parties in this instance may include: a contractor or an information management service provider.
- Explain how a search of mobile electronic devices was conducted (i.e., laptops, smart phones, cell phones, tablets) and if not, why.
- Explain which folders within the records management system were searched and how these folders link back to the subject matter. For electronic folders – indicate what key terms were used to search if applicable.
- Indicate the calendar dates each employee searched.
- Indicate how long the search took for each employee.
- Indicate what the results were for each employee’s search.
- Consider having the employee that is searching provide an affidavit to support the position that no record exists or to support the details provided.<sup>6</sup>

[17] If claiming that records do not exist, *FOIP* does not require that the government institution prove *with absolute certainty* that the records are non-existent. This office will consider reasonable explanations why a record would not exist, but a government institution still needs to demonstrate that it made reasonable efforts to physically search. Further, a government institution should not rely on memory alone as to whether records were created or not created.<sup>7</sup>

[18] On June 16, 2024, after OIPC commenced its review, SGI emailed the Applicant and indicated the Applicant’s “file was indeed a paper file and it was destroyed back in 2001.” SGI indicated in its submission that it had released everything in its electronic system to the Applicant, this included: (1) four pages of claim information that was digitized from the original auto claim file, and (2) two pages that were “the latest notes made when the

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<sup>6</sup> On issuing affidavits, see OIPC resource, [Using Affidavits in a Review with the IPC](#).

<sup>7</sup> See OIPC [Review Report 109-2023, 144-2023](#) at paragraph [29].

applicant first inquired about accessing [their] auto claim.”<sup>8</sup> The submission from SGI also explained why section 7(2)(e) of *FOIP* was cited in the section 7 notice to the Applicant as follows:

...it is possible that there would have been more records in the original physical file... SGI is aware that more records had previously existed and mentioning that records had been destroyed and could not be provided was a response that fulfilled SGI’s responsibility to respond openly, accurately and completely.

[19] On June 17, 2025, the Applicant responded to SGI in hopes of further clarifying their request, asking “was it scanned to an electronic system for historical purpose and then the paper documents destroyed? I require any and all documents electronic or otherwise.” In the Applicant’s submission, received by OIPC June 23, 2025, the Applicant added, in part, as follows:

Prior to emailing I tried to follow up with [SGI Privacy & Access Specialist] to try and obtain further information as to how long they historical keep electronic files as I hoped to resolve without going into the final formal review...I wanted to confirm whether or not the paper copy was destroyed and the historical data that was converted was stored somewhere else...

...  
...Although the paper copies may have been destroyed, I spoke to a couple representatives that made it sound as though the downtown office is where I would find these historical records, hence why I was required to complete a request.

[20] It is important to note that the Applicant’s submission is not based on personal knowledge of the records management practices of SGI. The Applicant is not, and never has been, employed by SGI. The Applicant appears to speak in a general sense. As such, their claims are not backed by anything other than information and belief.

[21] The submission from SGI stated that the Access & Privacy Specialist determined the auto claim file would have existed as a paper file given its age. The SGI Information Management Coordinator assisted in the search. This person advised that the paper copy of the auto claim file was, in fact, destroyed in 2001. As outlined at paragraph [4] of this

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<sup>8</sup> The words in square brackets are amendments by OIPC to protect identities.

Report, the Director provided OIPC with a screenshot from the SGI File Management System. The screenshot verified that the paper copy of the Applicant's auto claim file was received for storage on July 13, 1998, and subsequently destroyed on January 8, 2001. The screenshot makes no mention of how many pages the record would have been. SGI stated that the paper copy of the Applicant's auto claim file was destroyed in accordance with the retention policies it had in place at the time the file was destroyed.

[22] As for the remaining electronic records that were provided in full to the Applicant, SGI searched its electronic system for responsive records and located six pages which it duly released to the Applicant. These are the pages that were referred to in paragraph [18] of this Report. For the four pages that are digitized records of the original auto claim file, SGI stated that "the claim file was summarized and condensed when it was digitized...". Why some pages from the Applicant's auto claim file were digitized and others were not could not be fully explained by SGI and remains a mystery.

[23] SGI explained that the governing legislation for records retention and destruction in 2001 was *The Archives Act*.<sup>9</sup> Section 7 of that Act provided as follows:

**Preservation of documents**

7 All public documents shall be preserved by the department to whose business they belong until their transfer to The Saskatchewan Archives Board pursuant to this Act or their destruction is ordered by the Lieutenant Governor in Council pursuant to this Act or until their destruction is approved by the Legislative Assembly pursuant to this Act.

[24] SGI searched for and was not able to locate any relevant orders or policies from 1997 to 2001 and concluded that those records would also have been destroyed in the normal course of business as those documents would be *at least* 24 years old.

[25] SGI further noted that *The Archives Act* has been repealed and replaced twice since the destruction of the records at issue, and as such, its records management practices have changed considerably in the past 20 years. Past iterations of the SGI retention schedules

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<sup>9</sup> [\*The Archives Act\*](#), RSS 1978, c. A-26 (repealed).

were approved by the Provincial Archives of Saskatchewan, pursuant to the governing legislation of the time.

[26] The current *SGI Records Classification and Retention Schedule* has been approved by the Provincial Archives of Saskatchewan pursuant to *The Archives and Public Records Management Act*.<sup>10</sup> The current retention schedule outlines that Standard Auto Claim Files are to be retained for seven years after the closure of the claim, or in cases involving minors, seven years after the minor reaches the age of majority (whichever is later). Injury Claim Files are retained for 16 years after the closure of a claim, or in cases involving minors, 16 years after the minor reaches the age of majority (whichever is later). This office inquired if electronic and paper records have the same retention periods or if they are treated differently and SGI explained as follows:

SGI maintains the same retention period for all components of the records including both electronic and physical records. However, it is important to note that the practices and policies surrounding record destruction have evolved over time. At the time this particular claim from 1997 was destroyed in 2001, SGI's practices were such that only the physical components of the claim file were destroyed. Consequently, the digitized records were retained even though the physical records were not.

[27] This office accepts SGI's claim that the paper records associated with the Applicant's auto claim file were destroyed in 2001. Given the age of the requested records, it is reasonable to conclude that SGI has destroyed the entirety of the paper records associated with the Applicant's auto claim file.<sup>11</sup>

[28] In terms of the outlying electronic records, SGI completed a search of its electronic file management system, which miraculously produced some records that SGI immediately released to the Applicant. The digitized pages of the original auto claim file would be

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<sup>10</sup> [The Archives and Public Records Management Act](#), SS 2015, c. A-26.11, as amended.

<sup>11</sup> In OIPC [Review Report 054-2024](#) at paragraph [36], it was found that it would be reasonable to conclude that records had been destroyed based on the age of the records and the Saskatchewan Health Authority's *Guidelines on Purging & Destroying Records*.

subject to the same retention and destruction criteria as paper records. However, as SGI noted, there is no explanation for why these pages were digitized and the others not.

[29] A government institution does not need to prove beyond a reasonable doubt that a record does not exist; it only needs to conduct a reasonable search, which can be supplemented with reasonable explanations. Based on SGI's explanations and documentation, there is a finding that SGI has conducted a reasonable search for records. There will be a recommendation that SGI take no further action regarding the search for records.

#### **IV FINDINGS**

[30] OIPC has jurisdiction to conduct this review.

[31] SGI has conducted a reasonable search for records.

#### **V RECOMMENDATION**

[32] I recommend that SGI take no further action regarding the search for records.

Dated at Regina, in the Province of Saskatchewan, this 18<sup>th</sup> day of September, 2025.

Grace Hession David  
Saskatchewan Information and Privacy Commissioner