



Office of the  
Saskatchewan Information  
and Privacy Commissioner

## REVIEW REPORT 109-2022

### Office of the Public Guardian and Trustee

January 10, 2023

**Summary:**

The Applicant submitted an access to information request to the Office of the Public Guardian and Trustee (PGT). PGT granted the Applicant access to some of the records, but redacted portions of them. PGT cited subsections 15(1)(b), (c), and 29(1) of *The Freedom of Information and Protection of Privacy Act* (FOIP) as its reasons for refusing access to portions of the records. It also cited subsection 27(1) of *The Health Information Protection Act* (HIPA) as a reason for refusing access to portions of the records. The Applicant appealed to the Commissioner. The Commissioner found that subsection 29(1) of FOIP applied to the majority of the cases where PGT applied it, as well as subsection 27(1)(a) of HIPA. However, the Commissioner found that PGT did not demonstrate subsection 15(1)(c) of FOIP applies nor did it properly apply subsection 15(1)(b) of FOIP. The Commissioner set out his findings and recommendations to the PGT in the Appendix of the Report.

### I BACKGROUND

- [1] From 1995 to 2014, I served as the Public Guardian and Trustee of Saskatchewan. Although no conflict exists today, I have taken no part in this review. I have delegated the Deputy Commissioner to make all decisions related to this review.
- [2] On February 15, 2022, the Office of the Public Guardian and Trustee (PGT) received the following access to information request:

File No. PGT-[seven-digit file number] Oct 2019 to Present Day

[3] In a letter dated March 15, 2022, PGT responded to the Applicant by granting access to portions of the responsive records, but withheld the remainder of the records. PGT cited subsections 15(1)(b), (c) and 29(1) of *The Freedom of Information and Protection of Privacy Act* (FOIP) and subsection 27(1) of *The Health Information Protection Act* (HIPA).

[4] On May 25, 2022, my office received a request for review from the Applicant.

[5] On July 19, 2022, my office notified both the Applicant and PGT that my office would be undertaking a review.

[6] On September 19, 2022, my office received a submission from PGT. My office did not receive a response from the Applicant.

## **II RECORDS AT ISSUE**

[7] There are 29 records at issue. The records include emails, file record slips containing notes of PGT employees, and records from Information Service Corporation's (ISC) Land Titles Registry.

[8] I should note that 2 records (records 24 and 27) were released to the Applicant in their entirety. Therefore, my office did not need to review these records.

## **III DISCUSSION OF THE ISSUES**

### **1. Do I have jurisdiction?**

[9] PGT qualifies as a "government institution" pursuant to subsection 2(1)(d)(ii)(A) of FOIP and section 3 and Part I of the Appendix of *The Freedom of Information and Protection of Privacy Regulations* (FOIP Regulations). I find that I have jurisdiction to conduct this review under FOIP.

[10] Further, PGT cited subsection 27(1) of HIPA as a reason for refusing the Applicant access to portions of the records. HIPA is engaged when three elements are present: 1) personal health information, 2) a trustee, and 3) the trustee has custody or control of the personal health information.

[11] First, the portions of the records to which PGT applied subsection 27(1) of HIPA qualifies as “personal health information” as defined by subsection 2(m)(i) of HIPA, which says:

**2** In this Act:

...

(m) “**personal health information**” means, with respect to an individual, whether living or deceased:

(i) information with respect to the physical or mental health of the individual;

[12] Second, PGT qualifies as a “trustee” as defined by subsection 2(t)(i) of HIPA, which says:

**2** In this Act:

...

(t) “**trustee**” means any of the following that have custody or control of personal health information:

(i) a government institution;

[13] Third, PGT has custody and control over the personal health information as these records were created by its employees.

[14] All three elements are present in order HIPA to be engaged. I find that I have jurisdiction to conduct this review under HIPA.

## **2. Did PGT properly apply subsection 29(1) of FOIP?**

[15] PGT applied subsection 29(1) of FOIP to portions of every record at issue.

[16] Subsection 29(1) of FOIP provides as follows:

**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.

[17] Subsection 29(1) of FOIP protects the privacy of individuals whose personal information may be contained within records responsive to an access to information request made by someone else (*Guide to FOIP*, Chapter 4, “Exemptions from the Right of Access”, updated April 30, 2021, [*Guide to FOIP*, Ch. 4] p. 281).

[18] When dealing with information in a record that appears to be personal information, the first step is to confirm the information indeed qualifies as personal information pursuant to subsection 24(1) of FOIP (*Guide to FOIP*, Ch. 4, p. 281). Provisions of section 24(1) of FOIP relevant in this review include:

**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:

(a) information that relates to the race, creed, religion, colour, sex, sexual orientation, family status or marital status, disability, age, nationality, ancestry or place of origin of the individual;

(b) information that relates to the education or the criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved;

...

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

(f) the personal opinions or views of the individual except where they are about another individual;

...

(j) information that describes an individual’s finances, assets, liabilities, net worth, bank balance, financial history or activities or credit worthiness; or

(k) the name of the individual where:

(i) it appears with other personal information that relates to the individual; or

(ii) the disclosure of the name itself would reveal personal information about the individual.

[19] I note that the list set out in subsection 24(1) of FOIP is non-exhaustive.

[20] To determine if the information qualifies as “personal information”, the information must:  
1) be about an identifiable individual and 2) be personal in nature.

[21] In its submission, PGT offered the following argument for its application of subsection 29(1) of FOIP to portions of the records:

The PGT is a government institution. No government institution shall disclose personal information in its possession without consent or where authorized. Personal information is defined per section 24(1) of FOIPP. The PGT severed portions of records where they contained personal information related to family status, disability, age, financial transactions, identifying symbols or numbers, home addresses, personal opinions or views correspondence that is implicitly confidential, information that describes an individual's finances, assets, liabilities, net worth and financial history, and the name of the individual where it appears with other personal information.

[22] Based on a review of the records, PGT applied subsection 29(1) of FOIP to the following types of information:

- Portions of emails that describe third party individuals.
- Portions of “file record slips” that contain notes by PGT employees of telephone calls describing third party individuals. This includes telephone calls between PGT employees and the Applicant.
- Portions of tax receipts and utility receipts that contain information about third party individuals.
- Name, telephone number and email address of a Village employee.
- Name of an employee at a care home.
- Results of a search on Information Services Corporation’s (ISC) Land Titles Registry.

[23] In the majority of the portions to which PGT applied subsection 29(1) of FOIP, I find that the application was appropriate. For example, information regarding third party individuals

appearing in emails such as names and their contact information, file record slips that records names, contact information and contents of telephone conversations (including opinions and views), and tax/utility receipts qualify as personal information as defined by subsection 24(1)(e), (f), (i), (j), and (k)(i) of FOIP. I recommend that PGT continue to withhold those portions of the records. My findings and recommendations are set out in the Appendix.

[24] An exception, though, is in file record slips that contain notes by PGT employees recording what the Applicant said during telephone calls regarding third party individuals. In past reports, such as my office's [Review Report 142-2022](#) at paragraph [45], I have said it is an absurd result to withhold information that the Applicant has supplied. In the file record slips where the PGT employee has recorded information supplied by the Applicant regarding third party individuals, I find it would be an absurd result to withhold such information. I recommend that the PGT release those particular portions to the Applicant. My findings and recommendations are set out in the Appendix.

[25] Regarding the redaction of name, telephone number and email address of a Village employee and also the redaction of the name of an employee at a care home, such information is "business card information". In past reports, such as my office's [Review Report 369-2021](#) at paragraph [32], I have found such information does not qualify as "personal information" as defined by subsection 24(1) of FOIP. Later in this report, I will consider such information pursuant to subsection 15(1)(b) or (c) of FOIP.

[26] Finally, PGT had conducted a search on ISC's Land Titles Registry. The results of the search make up pages of the responsive records. PGT redacted portions of these pages pursuant to subsection 29(1) of FOIP. However, in my office's [Review Report 192-2016](#), I note that records from the Land Titles Registry maintained by ISC is not subject to *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP). Similarly, subsection 3(1)(a) of FOIP provides as follows:

**3(1)** This Act does not apply to:

(a) published material or material that is available for purchase by the public;

[27] Since records from ISC's Land Title Registry is material available for purchase by the public, then I find that FOIP does not apply to such records. In my office's [Review Report 192-2016](#), I encouraged all public bodies to release public information to applicants, especially if the public body already spent taxpayer money to retrieve such information. Similarly, I recommend that PGT release the portions it redacted from the pages it retrieved from ISC's Land Title Registry.

[28] My findings and recommendations are set out in the Appendix.

### 3. Did PGT properly apply subsection 15(1)(c) of FOIP?

[29] PGT applied subsection 15(1)(c) of FOIP to portions of record 15, 16, 29 and 31.

[30] Subsection 15(1)(c) of FOIP 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;

[31] My office used the following two-part test to determine if subsection 15(1)(c) of FOIP has been properly applied.

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

2. Does one of the following exist?

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

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

*(Guide to FOIP, Ch. 4, pp. 52-53)*

[32] 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"?**

[33] A "lawful investigation" is an investigation that is authorized or required and permitted by law (*Guide to FOIP*, Ch. 4, p. 52).

[34] In its submission, PGT said section 40.7 of *The Public Guardian and Trustee Act* authorizes it to investigate allegations of financial abuse of vulnerable persons. It said that it was contacted regarding an allegation of financial abuse. It investigated the matter and concluded the matter.

[35] Even though PGT did not apply subsection 15(1)(c) of FOIP to Record 17, I note that Record 17 is a letter dated October 31, 2019, to a Village. The disclosed portions of this letter reveal that the PGT was informing the Village that it (PGT) was undertaking an investigation pursuant to sections 40.6 and 40.7 of *The Public Guardian and Trustee Act*. Based on this letter, I am satisfied that there was a lawful investigation.

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

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

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

[36] In its submission, PGT said the release of the information would interfere with any future investigations. PGT asserted that the release of the redacted portions may have a "chilling effect" with individuals who provide it with information: It said:

The PGT relies on third parties to report potential financial abuse and to provide information during investigations. These third parties are important informants of financial abuse investigations and cooperation from them is essential to the investigations conducted by the PGT. Disclosure of information that would identify those parties may have a "chilling effect" on the ongoing relationships and future communications from them. This would then hinder and interfere with any future investigations by the PGT.

[37] PGT's argument did not speak to the investigation referred to in Record 17.



[38] Section 15 of FOIP uses the word “could” instead of “could reasonably be expected to” as seen in other provisions of FOIP. The threshold for “could” is somewhat lower than a reasonable expectation. The requirement for “could” is simply that the release of the information “could” have the specified result. There would still have to be a basis for asserting the harm could occur. If it is fanciful or exceedingly remote, the exemption should not be invoked (*Guide to FOIP*, Ch. 4, p. 52).

[39] “Interfere with” including hindering or hampering an investigation and anything that would detract from an investigator’s ability to pursue the investigation (*Guide to FOIP*, Ch. 4, p. 53).

[40] “Interference” can occur on concluded, active, ongoing or future investigations (*Guide to FOIP*, Ch. 4, p. 53).

[41] I note that the Office of the Information and Privacy Commissioner of British Columbia (BC IPC) has rejected the “chilling effect” argument in several of its decisions, including [Order 02-21](#) where BC IPC said:

[35] These harm arguments do not assist the Ministry’s that the information was supplied in confidence. **They really go, in my view, to the “chilling” argument that public bodies often introduce in such cases, i.e., that investigations or other activities will be compromised if information is released under the Act. Such arguments are really harm arguments and are, in one respect, really a form of resistance to the right of access under the Act.** I have rejected this argument on previous occasions. See, for example, para. 9 of Order 01-07.

[Emphasis added]

[42] In [Order 01-07](#), the public body argued against the disclosure of investigation reports by asserting that the disclosure would harm its ability to conduct investigations. BC IPC rejected that argument, indicating that BC’s *Freedom of Information and Protection of Privacy Act* (BC FOIP) offers protection on an “exception-by-exception” basis in the circumstances of each case:

[7] Some of the arguments advanced by the Ministry in this case focus less on the personal privacy interests of the third parties than on the Ministry’s interest in

preserving, generally, the confidentiality of its investigations. **It argues that its ability to conduct investigations would be harmed by disclosure of the disputed information.** In its initial submission, the Ministry relies on Order No. 144-1997, [1997] B.C.I.P.C.D. No. 26, in which my predecessor agreed there should be a “cloak of confidentiality” with respect to the work of public bodies that conduct complaint investigations. In that case, my predecessor agreed, at p. 8, that

... it is essential to the effective conduct of complaint investigations, especially for sensitive matters, that staff of public bodies charged with such responsibilities should have a cloak of confidentiality to do their work.

[8] **The disputed records enjoy no greater protection under the Act because they are the product of a workplace investigation.** Whether or not one refers to a ‘zone’ or ‘cloak’ of confidentiality, **the issue of whether information can or must be withheld has to be addressed on an exception-by-exception basis in the circumstances of each case.** As I noted in Order No. 324-1999, [1999] B.C.I.P.C.D. No. 37, it may well be that one or more of the Act’s exceptions to the right of access will – alone or in combination – lead to the same result as the application of a ‘zone’ or ‘cloak’ of confidentiality. But there is no discrete disclosure exception under the Act known as a zone or cloak of confidentiality. Although I am alive to the sensitivity of investigation reports and related records, the same principles apply in these cases as apply in other cases.

[9] **I am not persuaded by the Ministry’s argument that disclosure here will harm its ability to conduct other investigations of this kind. Such an argument has, in the employment investigation context, been rejected in a number of labour arbitration cases, where investigation reports and materials have been ordered disclosed despite such an argument. I also rejected such a ‘chilling’ argument in Order 00-11, [2000] B.C.I.P.C.D No. 13, where a self-regulating body made the same submission.**

[Emphasis added]

[43] Also, in [Order 00-11](#), BC IPC rejected a public body’s “chilling effect” argument when the public body used such an argument to justify its withholding all of the records at issue:

**The thrust of the College’s case is that disclosure of the information to which it has applied s. 15(1)(a) is likely to have a chilling effect.** It will discourage doctors from participating in the College’s complaints review and investigation process, since information they provide in confidence will be disclosed. Since confidentiality is at the core of the system, disclosure will harm that system and thus a law enforcement matter.

**In my view, the College’s argument amounts to an assertion that disclosure of any of this information – and the College did attempt to expand its application of s. 15(1)(a) to everything in dispute here – will harm a law enforcement matter. This**

**verges, in my view, on a claim that s. 15(1)(a), as regards the College's activities, is a class exemption for information relating to the College's consideration or investigation of a complaint under the MPA. I disagree.** In each case, the College must prove a reasonable expectation of harm to a specific law enforcement matter.

[Emphasis added]

[44] Further, I note that the Federal Court of Appeal has taken the position that a government institution cannot refuse to disclose information pursuant to subsection 16(1)(c) of *The Access to Information Act* (ATIA) on the basis that the disclosure would have a chilling effect on future investigations. Subsection 16(1)(c) of the ATIA says:

16(1) The head of a government institution may refuse to disclose any record requested under this Part that contains

...

(c) information the disclosure of which could reasonably be expected to be injurious to the enforcement of any law of Canada or a province or the conduct of lawful investigations, including, without restricting the generality of the foregoing, any such information

(i) relating to the existence or nature of a particular investigation,

(ii) that would reveal the identity of a confidential source of information, or

(iii) that was obtained or prepared in the course of an investigation;

[45] In *Rubin v. Canada (Minister of Transport)*, 1997 CanLII 6385 (FCA), [1998] 2 FC 430 (*Rubin v. Canada*), the Federal Court of Appeal (FCA) said the following:

Thus, in my opinion, paragraph 16(1)(c) should be interpreted in the following manner: the word conduct refers to something specific about the development or progress of a particular investigation. It does not refer to the general investigative process. The use of investigations in the plural simply means that more than one investigation concerning the same event may be undertaken and may possibly be affected by the disclosure of information. **As for future investigations, it is possible that information may affect an investigation that has not yet been undertaken but is about to be undertaken.** An example of this is if a criminal investigation was also going to be undertaken as a result of an accident but had not yet officially begun. **It cannot, however, refer to future investigations generally, such as all future post-accident safety reviews. To apply to the future, the exemption must be limited, specific and known.** It cannot apply to all safety reviews. It can, however, have an impact on a particular safety review investigation, but to be able to do this, that investigation must have been undertaken or be about to be undertaken. Thus, **one**

**cannot refuse to disclose information under paragraph 16(1)(c) on the basis that to disclose would have a chilling effect on future investigations.**

[Emphasis added]

[46] In its submission (quoted earlier), PGT argued that the disclosure of the redacted information would identify individuals who provide information to it during investigations. Such a disclosure which may lead to a “chilling effect”, which would then interfere with future investigations.

[47] While I acknowledge that the wording in the provisions in BC FOIP and ATIA that are similar but not identical to subsection 15(1)(c) of FOIP, I take guidance from BC IPC’s decisions as well as from the Federal Court of Appeal’s *Rubin v. Canada*. That is, government institutions cannot refuse to disclose information on the basis that the disclosure would interfere with the government institution’s ability to conduct investigations in the future generally. They must speak specifically to how the disclosure would interfere with a specific lawful investigation. If the government institution believes that the disclosure of the information would interfere with a future investigation, the future investigation should be “about to be undertaken”, as stated in *Rubin v. Canada*.

[48] In my office’s [Review Report 059-2017](#), I discussed the Supreme Court of Canada (SCC) case *Lavigne v. Canada (Office of the Commissioner of Official Languages)*, [2002] 2 SCR 773, 2002 SCC 53 (*Lavigne v. Canada*). I had noted that in order for subsection 22(1)(b) of the federal *Privacy Act* to apply, there must be a clear and direct connection between the disclosure of specific information and the injury to future investigations that is alleged. I said:

[24] Then, the complainant applied for judicial review. The Federal Court, Trial Division ordered disclosure of his personal information. The Federal Court of Appeal affirmed this decision. Then, the Commissioner of Official Languages (COL) appealed to the SCC. The SCC considered the issue of whether the disclosure of the complainant’s personal information could reasonably be expected to be injurious to the conduct of lawful investigations by the COL. **The SCC asserted that in order for subsection 22(1)(b) of the *Privacy Act* to apply, there must be a clear and direct connection between the disclosure of specific information and the injury that is alleged. The COL alleged that the disclosure of personal information could**

**reasonably be expected to be injurious to his (the COL's) future investigations. Ultimately, the SCC found that the COL did not provide a reasonable basis for it to conclude that the disclosure of the complainant's personal information could reasonably be expected to be injurious to future investigations.**

[25] **Further, the SCC found that the promise of confidentiality made to witnesses in an investigation conducted by the COL is not absolute.** In fact, the COL's policy was to assure witnesses that the information they disclosed to investigators would be kept confidential within the limits of sections 72, 73, and 74 of the *Official Languages Act*, which provides that information may be disclosed in limited circumstances. After responding to the complaint, the COL had modified this policy to also cite that the OCOL is subject to the *Privacy Act* and that the information collected from witnesses may be exempt from the disclosure requirement where an exception to the disclosure applies.

[26] Based on the above, the outcome of *Lavigne v. Canada*, does not support PCC's argument that disclosure of information would be injurious to the PCC's ability to enforce *The Police Act, 1990*. **In fact, *Lavigne v. Canada* suggests that the confidentiality required by subsection 39(5) of *The Police Act, 1990* is not absolute. PCC is subject to FOIP. It can only refuse the Applicant access where it has demonstrated that the information falls within the criteria of an exemption.**

[Emphasis added]

[49] PGT has not provided sufficient evidence that the disclosure of the information would interfere with its ability to conduct investigations in the future pursuant to section 40.7 of *The Public Guardian and Trustee Act*. In other words, the disclosure of the redacted information does not interfere with its ability to examine records and request information from any pursuant to subsection 40.7(2)(b) of *The Public Guardian and Trustee Act* nor does it change the duty upon a person to provide any requested record or information to the PGT pursuant to subsection 40.7(3) of *The Public Guardian and Trustee Act*:

**40.7(2)** In an investigation pursuant to subsection (1), the public guardian and trustee may:

(a) at any reasonable time, examine any record, whether in the possession of the person believed to be a vulnerable adult or any other person; and

(b) request any person to provide any information and explanations the public guardian and trustee considers necessary to the investigation.

(3) If requested to do so by the public guardian and trustee, a person shall make available any record or shall provide the information and explanations mentioned in clause (2)(b).

[50] The burden of proof is upon the PGT pursuant to section 61 of FOIP. I find that the PGT has not met the burden of proof. I find that PGT has not demonstrated that subsection 15(1)(c) of FOIP applies.

**4. Did PGT properly apply subsection 15(1)(b) of FOIP?**

[51] PGT applied subsection 15(1)(b) of FOIP to portions of Records 2, 15, 16, 17, 29 and 31.

[52] Subsection 15(1)(b) of FOIP provides:

**15(1)** A head may refuse to give access to a record, the release of which could:

...  
(b) be injurious to the enforcement of:

(i) an Act or a regulation; ...

[53] My office uses the following two-part test to determine if subsection 15(1)(b) of FOIP applies:

1. Which Act or regulation is being enforced?
2. Could release of the record injure enforcement of the Act or regulation?

*(Guide to FOIP, Ch. 4, p. 50)*

[54] The following is analysis to determine if the two-part test is met.

***1. Which Act or regulation is being enforced?***

[55] The main question is under which power was the enforcement conducted (*Guide to FOIP, Ch. 4, p. 50*).

[56] An “Act” or “regulation” means an Act of the Legislature together with any regulations issued thereunder and includes an Ordinance of the Northwest Territories in force in Saskatchewan (*Guide to FOIP*, Ch. 4, p. 50).

[57] “Enforcement” is the act or process of compelling compliance with a law, mandate, command, decree, or agreement (*Guide to FOIP*, Ch. 4, p. 50).

[58] In its submission, PGT cited *The Public Guardian and Trustee Act* as the Act being enforced. I find the first part of the test is met.

## ***2. Could release of the record injure enforcement of the Act or regulation?***

[59] “Injury” implies damage or detriment (*Guide to FOIP*, Ch. 4, p. 51).

[60] In its submission, the PGT offered the same argument for subsection 15(1)(b) of FOIP as it did for subsection 15(1)(c) of FOIP. That is, disclosing information that would identify individuals who provided it with information may have a chilling effect on the relationships and future communications with the individuals. As such, the chilling effect would then hinder any future investigations by the PGT.

[61] PGT’s argument does not demonstrate how the release of the portions to which it applied subsection 15(1)(b) of FOIP could be injurious to the enforcement of *The Public Guardian and Trustee Act*. As I have noted in my office’s [Review Report 059-2017](#), SCC found that the promise of confidentiality in an investigation conducted by Office of the Commissioner of Official Languages (OCOL) is not absolute. OCOL is subject to the federal *Privacy Act* similar to how PGT is subject to FOIP. PGT must still demonstrate that the redacted information (that is, the identity of individuals who provided it with information) falls within the criteria of this exemption in order to be withheld, and I find it did not.

[62] I find that PGT has not properly applied subsection 15(1)(b) of FOIP.

## **5. Did PGT properly apply subsection 27(1) of HIPA?**

[63] PGT applied subsection 27(1) of HIPA to portions of records 2, 4, 11, 25, and 29.

[64] Subsection 27(1) of HIPA provides:

27(1) A trustee shall not disclose personal health information in the custody or control of the trustee except with the consent of the subject individual or in accordance with this section, section 28 or section 29.

[65] Subsection 27(1) of HIPA applies to the personal health information of an individual, which a trustee cannot disclose unless the trustee has the consent of the subject individual (*Guide to HIPA*, updated December 16, 2016 [*Guide to HIPA*], p. 44).

[66] In its submission, PGT asserted it severed portions of records that contained personal health information as defined by subsection 2(m) of HIPA. Earlier, I found that the information qualifies as personal health information pursuant to subsection 2(m)(i) of HIPA.

[67] Based on a review of the portions of the records to which PGT applied subsection 27(1) of HIPA, I find that such information qualifies as personal health information of a third party individual as defined by subsection 2(m)(i) of HIPA. I find that PGT properly applied subsection 27(1) of HIPA.

#### **IV FINDINGS**

[68] I find that I have jurisdiction to conduct this review.

[69] As outlined in the Appendix, I find that PGT applied subsection 29(1) of FOIP in the majority of the cases where PGT applied it.

[70] As outlined in the Appendix, I find that PGT's application of subsection 29(1) of FOIP is an absurd result.



[71] As outlined in the Appendix, I find that PGT's application of subsection 29(1) of FOIP was not proper since the information is “business card information”.

[72] As outlined in the Appendix, I find that PGT did not properly apply subsection 29(1) of FOIP to records from ISC’s Land Titles Registry.

[73] I find that PGT has not demonstrated that subsection 15(1)(c) of FOIP applies.

[74] I find that PGT has not properly applied subsection 15(1)(b) of FOIP.

[75] I find that PGT properly applied subsection 27(1) of HIPA.

## **V RECOMMENDATION**

[76] I recommend that PGT follow the recommendations set out in the Appendix.

Dated at Regina, in the Province of Saskatchewan, this 10<sup>th</sup> day of January, 2023.

Ronald J. Kruzeniski, K.C.  
Saskatchewan Information and Privacy  
Commissioner

## Appendix

Record #	Severance #	Exemption(s) Applied by PGT	IPC Finding	IPC Recommendation
1	1	29(1) of FOIP	29(1) of FOIP applies.	Continue to withhold.
2	2 to 3	29(1) of FOIP	It would be an absurd result to withhold because it is information supplied by the Applicant.	Release to the Applicant.
2	4	29(1) of FOIP	29(1) of FOIP applies.	Continue to withhold.
2	5	29(1) of FOIP; 27(1) of HIPA	29(1) of FOIP and 27(1) of HIPA applies.	Continue to withhold.
2	6	29(1)	29(1) of FOIP applies.	Continue to withhold.
2	7	29(1), 15(1)(b); 27(1) of HIPA	29(1) of FOIP applies except to the name of the nurse (business card information).  15(1)(b) of FOIP does not apply.  27(1) of HIPA applies.	Release the name of the nurse; continue to withhold remainder of redacted information.
2	8	29(1)	29(1) of FOIP applies.	Continue to withhold.
2	9	29(1) of FOIP; 27(1) of HIPA	29(1) of FOIP and 27(1) of HIPA applies.	Continue to withhold.
3	10 to 12	29(1) of FOIP	29(1) of FOIP applies.	Continue to withhold.
4	13	29(1) of FOIP; 27(1) of HIPA	29(1) of FOIP and 27(1) of HIPA applies.	Continue to withhold.
5	14 to 34	29(1) of FOIP	29(1) of FOIP does not apply.	Release.
6	35	29(1) of FOIP	29(1) of FOIP applies.	Continue to withhold.
7	36	29(1) of FOIP	29(1) of FOIP applies.	Continue to withhold.

8	37	29(1) of FOIP	29(1) of FOIP applies.	Continue to withhold.
9	38	29(1) of FOIP	29(1) of FOIP applies.	Continue to withhold.
10	39	29(1) of FOIP	29(1) of FOIP applies.	Continue to withhold.
11	40	29(1) of FOIP	29(1) of FOIP applies.	Continue to withhold.
11	41	29(1) of FOIP; 27(1) of HIPA	29(1) of FOIP and 27(1) of HIPA applies.	Continue to withhold.
11	42	29(1) of FOIP	29(1) of FOIP applies.	Continue to withhold.
11	43	29(1) of FOIP; 27(1) of HIPA	29(1) of FOIP and 27(1) of HIPA applies.	Continue to withhold.
11	44 to 48	29(1) of FOIP	29(1) of FOIP applies.	Continue to withhold.
12	49	29(1) of FOIP	29(1) of FOIP applies.	Continue to withhold.
13	50	29(1) of FOIP	29(1) of FOIP applies.	Continue to withhold.
14	51	29(1) of FOIP	29(1) of FOIP does not apply.	Release.
15	52	29(1), 15(1)(b), 15(1)(c) of FOIP.	29(1) of FOIP applies to redacted information except for to the name and telephone number of Administrator for the Village of Invermay.  15(1)(b) of FOIP does not apply.  15(1)(c) of FOIP does not apply.	Release the name and telephone number of the Administrator of Village of Invermay.  Continue to withhold the remainder of the redacted information.
16	53	29(1), 15(1)(b), 15(1)(c) of FOIP	29(1), 15(1)(b), 15(1)(c) of FOIP does not apply.	Release.
17	54	29(1), 15(1)(b) of FOIP	29(1), 15(1)(b) of FOIP does not apply to name in the "Attention" field.	Release name in the "Attention" field.

17	55	29(1) of FOIP	29(1) of FOIP applies to the "Re:" line.	Continue to withhold the contents in the "Re:" line.
18	56 to 58	29(1) of FOIP	29(1) of FOIP applies.	Continue to withhold.
18	59 to 60	29(1) of FOIP	29(1) of FOIP does not apply.	Release.
19	61 to 62	29(1) of FOIP	29(1) of FOIP applies.	Continue to withhold.
19	63 to 64	29(1) of FOIP	29(1) of FOIP does not apply.	Release.
20	65 to 77	29(1) of FOIP	29(1) of FOIP applies except to the name of the Administrator.	Release the name of the Administrator. Continue to withhold the remainder of the redacted information.
21	78 to 80	29(1) of FOIP	29(1) of FOIP applies.	Continue to withhold.
22	81 to 82	29(1) of FOIP	29(1) of FOIP applies except to the name of the Administrator.	Release the name of the Administrator. Continue to withhold the remainder of the redacted information.
23	83 to 86	29(1) of FOIP	29(1) of FOIP applies.	Continue to withhold.
25	87	29(1) of FOIP; 27(1) of HIPA	29(1) of FOIP applies.  27(1) of HIPA applies.	Continue to withhold.
26	88 to 90	29(1) of FOIP	29(1) of FOIP applies.	Continue to withhold.
28	91 to 92	29(1) of FOIP	29(1) of FOIP does not apply.	Release.
28	93	29(1) of FOIP	29(1) of FOIP applies.	Continue to withhold.
29	94	29(1), 15(1)(b), 15(1)(c) of FOIP	29(1), 15(1)(c), 15(1)(b) does not apply.	Release.

29	95	29(1), 15(1)(b), 15(1)(c) of FOIP; 27(1) of HIPA	29(1) of FOIP and 27(1) of HIPA applies to the information except for name of care home employee.  15(1)(b) and 15(1)(c) of FOIP does not apply.	Continue to withhold except for name of care home employee.
29	96 to 97	29(1), 15(1)(b), 15(1)(c) of FOIP	29(1) of FOIP applies to the information except for name of care home employee.  15(1)(b) and 15(1)(c) of FOIP does not apply.	Continue to withhold except for name of care home employee.
30	98 to 102	29(1) of FOIP	29(1) of FOIP applies.	Continue to withhold.
31	103	29(1) of FOIP	29(1) of FOIP applies except for the name of the Village employee.	Release the name of the Village employee but withhold remainder.
31	104	29(1), 15(1)(b), 15(1)(c) of FOIP	29(1) of FOIP Applies except for name of Village employee.  15(1)(b) and 15(1)(c) of FOIP does not apply.	Release the name of the Village employee but withhold remainder.
32	105 to 106	29(1) of FOIP	29(1) of FOIP applies.	Continue to withhold.
33	107	29(1) of FOIP	29(1) of FOIP applies.	Continue to withhold.