Office of the
Saskatchewan Information
and Privacy Commissioner

REVIEW REPORT 244-2025

Public Service Commission

September 11, 2026

Summary: The Applicant submitted an access to information request under *The Freedom of Information and Protection of Privacy Act* (*FOIP*) to the Public Service Commission (PSC) for information related to their employment with the Ministry of Trade and Export Development (TED).

Upon fulfillment of the request, the Applicant requested a review by the Office of the Saskatchewan Information and Privacy Commissioner (OIPC). This review addresses whether the PSC complied with legislated timelines, and whether it properly applied exemptions.

The Commissioner found:

(1) PSC adequately substantiated the need for a time extension, but it was three days outside of the legislated timeline pursuant to section 12 of *FOIP*;

(2) PSC properly identified some information as non-responsive;

(3) It would constitute an absurd result for PSC to apply exemptions to withhold some information;

(4) PSC properly applied section 29(1) of *FOIP* (third party personal information) to some, but not all the withheld information;

(5) PSC properly applied section 17(1)(a) of *FOIP* (proposals from Executive Council) to some, but not all the withheld information;

(6) PSC did not properly apply section 17(1)(b)(i) of *FOIP* (consultations and deliberations with employees or officers of a government institution) to the record;

(7) PSC properly applied section 15(1)(d) of *FOIP* (information injurious to the government institution in the conduct of existing or anticipated legal proceedings) to some, but not all of the withheld information.

(8) PSC properly applied section 16(1) of *FOIP* (Cabinet confidence) to the withheld information; and

(9) PSC established a *prima facie* case justifying the application of section 22(a) of *FOIP* (solicitor-client privilege).

The Commissioner recommended that PSC continue to withhold the information where it has been found an exemption was properly applied. The Commissioner also recommended that PSC release the withheld information as outlined in the Appendix to this Report. Where release is recommended, PSC should do so within 30 days of the issuance of this Report.

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I BACKGROUND

[1] On May 28, 2025, the Applicant submitted the following access to information request to the Public Service Commission (PSC), for the date range of May 1, 2024 to May 27, 2025, pursuant to the jurisdiction of *The Freedom of Information and Protection of Privacy Act (FOIP)*[1]:

> All e-mails, texts, Teams messages, meeting invitations, meeting notes/documentation (handwritten and electronic) and documents from Freda Atsunyo, Janice MacDonald, Amy D'Andrea, Claudia Burke and Greg Tuer pertaining to or discussing:
>
> - [The Applicant's] medical appointments and absences.
> - Disciplinary action or performance concerns involving [the Applicant].
> - The Conflict of Interest Forms provided by [the Applicant].
> - The unpaid leave by [the Applicant] in October and November 2024.
> - [The Applicant's] campaign for [a locally elected community position] and [their] work as a [a person in that elected position].
> - Meetings with [the Applicant] pertaining to those matters.
>
> Emails, information and documents from [the Applicant] or already shared with [the Applicant] need not be included.[2]

[2] On June 30, 2025, PSC notified the Applicant that it would extend the 30-day response period by an additional 30 days under section 12(1)(b) of *FOIP*. On July 30, 2025, PSC informed the Applicant in a section 7 decision letter that it would fully release 214 pages of a 294 page record. PSC maintained that the remaining 80 pages, withheld in full or in part, included information that was subject to exemptions under sections 15(1)(d), 16(1), 17(1)(a), (b)(i), 22(a), (b), (c), 29(1), and 31(2) of *FOIP*.

[3] On September 23, 2025, the Applicant requested a review by the Office of the Saskatchewan Information and Privacy Commissioner (OIPC).

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[1] *The Freedom of Information and Protection of Privacy Act*, SS 1990-91, c. F-22.01, as amended.

[2] The use of square brackets in this Report serve to preserve the identity of the Applicant.

[4] On January 14, 2026, OIPC notified PSC and the Applicant that a review would commence of the following aspects of the access to information request: (1) whether PSC complied with section 12 of *FOIP*, including legislated timelines; and (2) whether PSC properly applied the exemptions claimed to the withheld information.

[5] On January 23, 2026, the Applicant provided a submission.

[6] PSC provided OIPC an unredacted copy of the records and an index of records on February 12, 2026, and a submission on March 23, 2026. PSC expressly stated that the submission could not be shared with the Applicant.

[7] On March 23, 2026, PSC provided an updated section 7 decision letter to the Applicant and released additional portions of 18 pages of the record that it had initially withheld. The Applicant's concerns were not satisfied and the OIPC review continued. This report is the result of the OIPC review.

II RECORDS AT ISSUE

[8] The responsive record comprised 294 pages. PSC released 214 pages to the Applicant in full. PSC withheld 49 pages in part and 31 pages in full. The OIPC review of the exemptions to the withheld material is reflected in the following pages of this Report. The Appendix to this Report presents a final summary of withheld material where exemptions were not properly applied by PSC, and which we recommend should be released to the Applicant within 30 days of the issuance of this Report.

III DISCUSSION OF THE ISSUES

1. Jurisdiction

[9] PSC is a "government institution" as defined by section 2(1)(d)(ii) of *FOIP* and section 3 and PART I of the Appendix of *The Freedom of Information and Protection of Privacy*

Regulations (*FOIP Regulations*).[3] Therefore, OIPC has jurisdiction to conduct a review of these matters under PART VII of *FOIP*.

2. Compliance with section 12 of *FOIP*

[10] Section 7(2) of *FOIP* requires a government institution to respond to an applicant within 30 calendar days of receiving an access request, unless the government institution extends the response deadline under section 12 of *FOIP*. PSC properly utilized section 12(1)(b) of *FOIP* to extend the deadline an additional 30 days, for a total of 60 days. The relevant sections for this analysis are as follows:

> **Extension of time**
> **12**(1) The head of a government institution may extend the period set out in section 7 or 11 for a reasonable period not exceeding 30 days:
>
> > …
> > (b) where consultations that are necessary to comply with the application cannot reasonably be completed within the original period; or
>
> **12**(2) A head who extends a period pursuant to subsection (l) shall give notice of the extension to the applicant within 30 days after the application is made.
>
> **12**(3) Within the period of extension, the head shall give written notice to the applicant in accordance with section 7.

[11] PSC received the access request on Wednesday, May 28, 2025. According to section 2-28 of *The Legislation Act*, the 30-day timeline begins *the day after* the receipt of the access to information request.[4] PSC was obligated by law to provide a section 7 decision letter notifying a time extension within 30 calendar days of Thursday, May 29, 2025. This means that the notice of a further 30-day extension should have been provided to the Applicant on Friday, June 27, 2025. PSC did not comply with section 12(2) of *FOIP* when it provided notice of the time extension on Monday, June 30, 2025 – three days late.

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[3] *The Freedom of Information and Protection of Privacy Regulations*, RRS c F-22.01 Reg 1 (April 1, 1992), as amended.

[4] OIPC Review Report 057-2025 at paragraph [16]. *The Legislation Act,* SS 2019, c. L-10.2, as amended.

[12] PSC confirmed a valid need for the extension of time:

> The extension was taken because consultations were necessary to respond to the request that could not reasonably be completed within the original 30 day period. These consultations included internal consultations with subject matter experts to review the responsive records and assess the applying of exemptions.

[13] It is the responsibility of every government institution to conduct internal consultations when responding to an access request. Consultations that require an extension of time should be those outside of intrinsic and routine considerations.[5] In this case, the access request listed five individuals that had to be approached. Further to this, a large number of documents and topics had to be referenced – possibly in connection with the five cited individuals. This was not a "simple" access request that could be reasonably met in 30 days. PSC adequately substantiated the need for a time extension, but it was three days outside of the legislated timeline pursuant to section 12 of *FOIP*.

3. Information deemed non-responsive

[14] When a government institution receives an access to information request, it must determine what information is responsive to the access request. "Responsive" means information that is reasonably relevant to the request. Any information that does not reasonably relate to an applicant's access request is considered "non-responsive."[6] PSC withheld portions of pages 56 and 57, identifying the information withheld as non-responsive in the submission to OIPC:

> During the review of the responsive records, PSC identified limited portions of information that were not responsive to the scope of the Applicant's access request. These portions relate to matters outside the subject matter of the request and were therefore severed as non-responsive. … In this case, the severed information relates to administrative or contextual information unrelated to the issues identified in the request and therefore falls outside the scope of the Applicant's access request.

[5] OIPC Review Report 137-2021 at paragraph [29].

[6] OIPC Review Report 199-2025 at paragraph [66].

[15] Based on a review of the pages, OIPC concludes the withheld portions of pages 56 and 57 are non-responsive. The content of these two pages addresses a subject matter that is relevant to PSC employees but plainly unrelated to the Applicant's access request and should continue to be withheld.

4. The "absurd result" principle

[16] When assessing grounds to withhold information under *FOIP*, government institutions must consider whether applying the exemption would give rise to an absurd result. This is based on a well-established principle of statutory interpretation that compliance with a statute cannot produce absurd consequences. The concept of "absurd consequences" was defined by the Supreme Court of Canada in 1998:[7]

> [27] … It is a well established principle of statutory interpretation that the legislature does not intend to produce absurd consequences. According to Côté, *supra,* an interpretation can be considered absurd if it leads to ridiculous or frivolous consequences, if it is extremely unreasonable or inequitable, if it is illogical or incoherent, or if it is incompatible with other provisions or with the object of the legislative enactment (at pp. 378-80). Sullivan echoes these comments noting that a label of absurdity can be attached to some interpretations which defeat the purpose of a statute or render some aspect of it pointless or futile (Sullivan, *Construction of Statutes, supra* at p. 88).

[17] An "absurd result" occurs when a public body applies an exemption to withhold records that results in a conflict with the purpose of the legislation. It would be an "absurd result" to withhold from an applicant information to which they already had access to by legitimate means, and of which they have an existing knowledge.[8] To do so would be incompatible with the principle of access underlying *FOIP*.

[18] PSC withheld portions of pages 185 and 186 pursuant to the exemptions in sections 17(1)(a) and 15(1)(d) of *FOIP*. The sole redaction on page 185 captures the Applicant's

[7] *Rizzo & Rizzo Shoes Ltd. (Re)*, [1998] 1 SCR 27, at paragraph 27.

[8] Office of the Ontario Information and Privacy Commissioner (ON IPC) Reconsideration Order MO-1868-R (November 19, 2004). See also OIPC Review Report 280-2025 at paragraphs [27] and [28] and OIPC Review Report 260-2025 at paragraph [13].

understanding of workplace responsibilities as recounted by the Applicant and as captured in a transcript of an interview with the Applicant. Pages 185 and 186 are part of a document referred to as a "transcript from a fact-finding meeting" that is dated March 20, 2024. This meeting involved the Applicant and another Ministry of Trade and Export Development (TED) employee. Given that the information withheld by PSC originated from the Applicant in the first place, the redacted content is clearly within the Applicant's realm of knowledge and should be released.

[19] PSC withheld a portion of page 290 pursuant to the exemption in section 29(1) of *FOIP*, personal information. The excerpt that was withheld represented the Applicant's opinion of how another workplace colleague's attitude has affected her. Our review revealed that this excerpt cannot fit into the definition of personal information pursuant to section 24(1)(f) of *FOIP* because even though the excerpt reveals the personal views of the Applicant – the views are about another individual. This excerpt cannot fit into section 24(1)(h) of *FOIP* because the opinion is the Applicant's and in order for this to constitute personal information section 24(1)(h) of *FOIP* requires the views or opinions be from another individual other than the Applicant, that are about the Applicant. The excerpt cannot fit into section 24(1)(f) of *FOIP* because *FOIP* does not consider the views and opinions of the Applicant about another individual to be personal information. We have concluded that section 29(1) does not apply in this instance because the redacted excerpt is not personal information.

[20] But more importantly and even more realistically, the excerpt is a summary of the thoughts and views as expressed by the Applicant with respect to the Applicant's assessment of another work colleague and that colleague's attitude. This content is obviously within the Applicant's realm of knowledge, so to continue to withhold the withheld information on page 290 is absurd and it should be released.

5. The application of section 29(1) of *FOIP*

[21] We now refer to the other ten pages that PSC withheld pursuant to the exemption in section 29(1) of *FOIP*:

> **Disclosure of personal information**
> **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.

[22] Section 29(1) of *FOIP* is a mandatory exemption that applies to "personal information" as defined by section 24(1) of *FOIP*. What qualifies as "personal information" is information that is about an "identifiable individual," and that is "personal in nature:"[9]

- An "identifiable individual" means a person can reasonably be identified through the disclosure of information. The information must reasonably be capable of identifying them either directly or because it allows for an accurate inference to be made as to their identity due to the context of the information or when combined with other available sources of information.

- "Personal in nature" means that the information reveals something personal about the individual. Information that relates to an individual in a professional, official or business capacity could only qualify if the information revealed something personal about the individual; for example, information that fits the definition of employment history.

[23] Section 24(1)(b) of *FOIP* bears noting:

> **Interpretation**
> **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:
>
> …
> (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;

[24] Section 29(1) of *FOIP* was properly applied to the following redactions and the material on these pages should continue to be withheld:

Page(s)	Descriptions and Conclusions
4	PSC made one redaction to an email thread under section 29(1) of *FOIP* on page 4. The withheld information relates to personal

[9] OIPC Review Report 033-2017 at paragraph [12].

	circumstances that affect how an individual (who is not the Applicant) is able to engage with their work, thereby engaging section 24(1)(b) of *FOIP* (employment history).
58, 81, 90, 151, 208, 209, 212, 220, and 283	The first and second redactions on page 58 are details related to the professional availability of various PSC employees. OIPC has historically established that information regarding employee presence at (or absence from) work qualifies as the personal information of that respective employee under section 24(1)(b) of *FOIP* and should not be released to third parties.[10] The same type of information is redacted on page 81, page 90, page 151, the first and third redactions on page 208, page 209, the first redaction on page 212, page 220, and page 283, for which section 24(1)(b) of *FOIP* is engaged.

6. The application of section 17(1)(a) of *FOIP*

[25] OIPC now turns to consider the information PSC withheld under section 17(1)(a) of *FOIP*, which states:

> **Advice from officials**
> **17**(1) Subject to subsection (2), a head may refuse to give access to a record that could reasonably be expected to disclose:
>
> > (a) advice, proposals, recommendations, analyses, or policy options developed by or for a government institution or a member of the Executive Council;

[26] As a discretionary, class-based exemption, section 17(1)(a) of *FOIP* uses the phrase, "could reasonably be expected". For the exemption to be found to apply, the party asserting the exemption must demonstrate that the harm alleged "could reasonably be expected" to happen. We accept the guidance of the Saskatchewan courts and refer to the standard as being that of an objective possibility: the expectation of harm needs to be reasonable, but not a certainty.[11] The burden of proof is borne by the party alleging the application of the exemption to show that the standard has been met; in this case, that party is PSC.

[10] OIPC Review Report 128-2020 at paragraph [16].

[27] OIPC uses the following two-part test to determine if section 17(1)(a) of *FOIP* applies:[12]

1. Does the information qualify as advice, proposals, recommendations, analyses or policy options?

2. Was the advice, proposals, recommendations, analyses or policy options developed by or for a government institution or a member of the Executive Council?

Does the information qualify as advice, proposals, recommendations, analyses or policy options?

[28] PSC submitted that the information withheld under this exemption constituted advice, recommendations, and analyses. Subsequently, those specific terms warrant definition:[13]

- "Advice" refers to guidance or recommendations offered with regard to future action; opinions or analysis related to a situation which may require action.
- "Recommendations" include suggestions as to a course of action, and the rationale for such suggestions.

- "Analyses" refers to the concise setting out of the advantages and disadvantages of particular courses of action.

[29] The OIPC review reveals that much of the information redacted under section 17(1)(a) of *FOIP* qualifies as advice, recommendations, and/or analyses, as illustrated in the table below:

Page(s)	Descriptions and Conclusions
30	Page 30 is an email message between PSC employees engaged in correspondence with a TED employee. PSC asserted: "The redacted portion contains a clear suggestion regarding a proposed course of action…" OIPC

[11] *Saskatchewan Government Insurance v Giesbrecht*, 2025 SKCA 10 at paragraphs [63], [78] and [79]. In this ruling, the Saskatchewan 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 an analysis with respect to the use of the term "could" in *FOIP*'s mirror provisions.

[12] OIPC Review Report 196-2024 at paragraph [18].

[13] *Leo v. Global Transportation Hub Authority*, 2019 SKQB 150 at paragraph [29].

	confirms the redaction on page 30 involved targeted guidance offered by a PSC employee to a TED employee about a potential action TED might take. The redaction qualifies as advice.
58 to 59	Pages 58 and 59 are part of an email thread that addressed the Applicant's participation in a presentation. PSC asserted: "The communication includes suggested courses of action …" Indeed, the third redaction on page 58 and the sole redaction on page 59 reveal that a PSC employee and a TED employee discussed a particular action. These redactions qualify as a recommendation.
88	Page 88 involves an email thread between a TED employee and a PSC employee where proposed communications were reviewed. The communications engaged professional judgment and discussed an appropriate course of action. OIPC agrees that the redaction qualifies as a recommendation.
90 to 91	Pages 90 to 91 involve an email thread between a PSC employee and a TED employee with respect to a human resources matter. There are two redactions across pages 90 and 91. PSC asserted: "The communication reflects … professional assessment of the situation and includes guidance on potential next steps, including the appropriateness of seeking legal advice" and "involves internal evaluation and suggested course of action." The redaction at the top of page 90 includes a rationale by a PSC employee with respect to a decision made by a TED employee. The redaction on page 91 is a detailed assessment of a decision to be made by a TED employee. The two redactions qualify as advice and analyses.
93 to 94	Pages 93 to 94 include an email thread between a PSC employee and a TED employee with respect to a human resources matter. There are five redactions across pages 93 and 94." The first redaction on page 93 reveals that a PSC employee provided expert guidance to another with respect to labour relations principles. This qualifies as an advice. The second redaction on page 93 includes suggestions of what next steps an employer could take in a particular situation. This qualifies as recommendations and proposals. The third redaction on page 93 reveals one PSC employee expressing potential courses of action for the future. This qualifies as an analysis and advice. A PSC employee explained an action in the first redaction on page 94. This qualifies as an analysis. The second redaction on page 94 reveals that a PSC employee provided guidance to other PSC employees. This qualifies as advice given.
97	Page 97 is an email message from a PSC employee to a TED employee with respect to an analysis of the human resources matter. The PSC employee outlined how TED may respond, including factors that may influence future strategy. The PSC employee provided a clear direction to the TED employee. These redactions qualify as an analysis and recommendations thereto.

153	Page 153 is an email thread between a PSC employee and a TED employee. The TED employee sought feedback and suggestions from the PSC employee about a draft response and the PSC employee suggested possible options. This qualifies as a request for advice and a recommendation.
157	Page 157 is an email thread between a PSC employee and a TED employee. The PSC employee outlined certain HR parameters that were especially applicable to the central topic of discussion. The redaction included guidance on discretionary factors for consideration. This qualifies as analyses and recommendations.
174	Page 174 is an email thread between two PSC employees. The redacted information involves instruction from one PSC employee to another PSC employee about a draft communication and work priorities. There is an analysis of a situation, recommendations made and advice given in this email. This qualifies as an analysis, recommendations and advice.
178 to 179	Pages 178 to 179 involve an email thread between two TED employees. One TED employee solicited feedback on the other's interactions with the Applicant. PSC asserted that the redacted information included, "evaluative opinions regarding the Applicant's work performance, strengths, and areas for improvement. These comments reflect analysis and professional judgment intended to inform management decisions." Our review reveals that the withheld information contains a detailed analysis and evaluation of the Applicant's work performance. This qualifies as analyses.
196	Page 196 is an email message from a TED employee to a PSC employee. The sole redaction on Page 196 captures a TED employee's explanation for an action taken. This qualifies as an analyses.
208	Page 208 is an email message between PSC employees that reveals evaluative judgment and guidance regarding how an HR matter should proceed in the future. Based on a review of the withheld content, OIPC agrees that the withheld content qualifies as advice and analyses.
212	Page 212 is an email thread where a PSC employee provided HR guidance to a TED employee. Based on a review of the withheld content, OIPC agrees that this constitutes advice and analyses.
222 to 223	Pages 222 to 223 comprise an email thread where a PSC employee provided a TED employee with recommendations with respect to future communications with the Applicant and an HR issue. This qualifies as advice.
237	Page 237 is part of a form that documents specific proposed next steps with respect to the Applicant. These next steps recommend courses of action. OIPC confirms that the withheld information constitutes advice and recommendations.

264	Page 264 is an email thread where a PSC employee imparts to other PSC employees strategies for working with government employees to change their work arrangements. The withheld portion outlines professional advice with respect how a situation should be handled and how actions should proceed. OIPC recognises that this qualifies as analyses and advice.
270	Page 270 is an email message between a PSC employee and a TED employee. The sole redaction in the email message includes suggestions for the TED employee on how to approach future discussions with the Applicant. This qualifies as advice.
282 and 284	Pages 282 and 284 are part of an email thread between a TED employee and PSC employees. The first redaction on page 282 is a recommendation to a TED employee by a PSC employee that a certain action be taken. The second redaction on page 282 contains a different recommendation provided by a PSC employee to the TED employee. The second redaction on page 284 is a replica of the redaction on page 270 above, which qualifies as advice. These redactions qualify as recommendations and advice.
289, 291, and 292	Pages 289, 291, and 292 are internal case management notes that document various PSC employees' involvement with the Applicant. The withheld material outline comments that evaluate impacts and considerations with respect to the Applicant. This qualifies as analyses.

[30] There were redactions made pursuant to section 17(1)(a) of *FOIP* for which the withheld information does not involve advice, recommendations, analyses or policy options. Our review revealed the following items that we are recommending be released for these reasons:

Page(s)	Descriptions and Conclusions
75	Page 75 includes a draft document attached to an email between a TED employee and a PSC employee. There are four redactions on page 75. The attachment is titled "Speaking Points – Conflict of Interest Request", and includes several headings in the form of questions – the questions were released to the Applicant – the speaking points were withheld. The PSC asserted that the redactions included an analysis of whether a conflict existed, guidance on how to communicate the decision, identification of available options, and suggested next steps. We do not agree that the withheld material on this page qualifies for the exemption in section 17(1)(a) of *FOIP* for the following reasons:

	• The first redaction outlines a decision and conveys that decision. As the decision has been made and previously conveyed to the Applicant, it is a factual communication to the Applicant that summarizes the advice, proposals and recommendations that may have come before.[14] • The second redaction is an incomplete sentence that contains no analysis, proposal, recommendation or advice. • The third redaction articulates an offer for future consideration that may be considered a proposal but not the kind of proposal within the context of section 17(1)(a) of *FOIP* because there is no analysis attached. Once again, this is a factual proposal that is made to the Applicant. • The fourth redaction refers to a policy. None of the withheld content constitutes advice, recommendations, or analyses.
141 to 144	Pages 141 to 144 comprise two separate meeting agendas. The released information includes the headings that relate to ongoing TED operational planning. PSC asserted that the redactions "sets out internal work priorities, areas of focus, and planning considerations for specific program areas" that "reflect internal evaluative judgment …". We do not agree that these agenda items are captured by section 17(1)(a) of *FOIP* for the following reasons: • The first redaction on page 141 shows an outline of ongoing internal work priorities, areas of focus, and planning considerations for specific program areas – in essence an agenda of talking points and nothing more. There is no analysis or policy options or advice attached. • The second redaction on page 141 involves another item on a "to do" list and the employee to whom this duty is assigned. There is no analysis or policy options or advice attached. • The third redaction on page 141 outlines planning and performance items to be discussed in the future. There is no analysis or policy options or advice attached. • The sole redaction on page 142 outlines two ongoing business projects and factual updates with respect to their progress.[15] There is no analysis or policy options or advice attached.

[14] OIPC Review Report 148-2023 at paragraph [65].

	• The redaction on page 143 and three redactions on page 144 reflect similar agenda items for a weekly meeting with the Executive Director of PSC. The notes reflect a list of things to do and the progress of those items. There is no analysis or policy options or advice attached.
165 to 167	Pages 165 to 167 is an email thread between a PSC employee and a TED employee. The redaction on page 165 and the first redaction on page 166 show another "to do" list similar to the items described above. The withheld information appears to be nothing more than a recapitulation of what has already happened or directions about what needs to happen. The second redaction on page 166 shows a detailed framework of actions that a TED employee has been directed to take in relation to financial programs. OIPC has established that directions do not qualify as advice, proposals, recommendations, analyses, or policy options.[16]
232	The sole redaction on page 232 is an excerpt from an email chain between a TED employee and a PSC employee. The withheld information comments on a forwarded email from the Applicant and outlines a future intention to follow up. The withheld information is an update, it does not constitute advice, proposals, recommendations, and/or analyses.

[31] The first part of the test is not met for the redactions outlined directly above in paragraph [30]. There were other exemptions applied to these redactions and those will be considered later in this Report. OIPC now turns to consider the second part of the test.

Was the advice, proposals, recommendations, analyses or policy options developed by or for a government institution or a member of the Executive Council?

[32] The next determination is whether the advice, recommendations and/or analyses were "developed by or for" a government institution – in this case, PSC and TED both qualify as government institutions.[17] OIPC has historically interpreted that, for the advice,

[15] *Ibid*.

[16] OIPC Review Report 182-2024 at paragraph [39].

[17] TED is a "government institution" as defined by section 2(1)(d)(i) of *FOIP*.

recommendations, and/or analyses to be "developed by or for" the government institution, they must have been created either: *within* the government institution or *outside* the government institution but for the government institution and at its request.[18]

[33] PSC submitted that the records were created by PSC staff or originated as a result of communication with another government institution, TED, within the scope of official duties. Based on a review of the redactions, it is evident that the advice, recommendations, and/or analyses confirmed in paragraph [29] were developed by *and* for a government institution. OIPC draws this conclusion based on a careful review of who was involved in the records, which includes employees of PSC and TED.

[34] The second part of the test is met for the items reviewed in paragraph [29], the redacted contents of which PSC should continue to withhold under section 17(1)(a) of *FOIP*.

7. The application of section 17(1)(b)(i) of *FOIP*

[35] OIPC now turns to consider the portions of eight pages PSC withheld under section 17(1)(b)(i) of *FOIP*, which states:

> **Advice from officials**
> **17**(1) Subject to section (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;

[36] OIPC uses the following two-part test to determine if section 17(1)(b)(i) of *FOIP* applies:

1. Does the record contain consultations or deliberations?
2. Do the consultations or deliberations involve officers or employees of a government institution, a member of the Executive Council, or the staff of a member of the Executive Council?

[18] OIPC Review Report 267-2025 at paragraph [20].

[37] A "consultation" occurs when the views of one or more officers or employees of a government institution are sought as to the appropriateness of a particular proposal or suggested action. A "deliberation" is a discussion or a consideration by officers or employees of a government institution of the reasons for and against an action.[19] The Court of King's Bench for Saskatchewan has provided guidance that the term "deliberation" might suggest an intent to decide while "consultations" may occur at an early stage of decision-making:[20]

> [67] I accept that the concept of deliberation might suggest an intent to decide. Consultation appears to be a broader term, and need not have that objective, though the definition advanced by the Commissioner suggests that such an objective might be necessary. Consultation might reasonably occur at such an early stage of decision-making that it equates to information gathering to better inform proposal-development. If the Legislature intended to exclude discussions with persons that might not lead to decisions, it would have been a simple matter to include that notion in s. 16. It did not do so.
>
> [Emphasis added]

[38] The redactions made under section 17(1)(b)(i) of *FOIP* appear to offer summaries of completed actions or lists of actions to be taken in the future. OIPC has established that summaries[21] do not constitute consultations and/or deliberations. Consequently, section 17(1)(b)(i) of *FOIP* does not apply to the redacted content on pages 141 to 144, 165 to 167, and 232.

[39] PSC also applied section 15(1)(d) of *FOIP* to the redactions on pages 141 to 144 and 165 to 167, which will be considered later in this Report.

[40] Given that PSC applied no additional exemptions to the redactions on page 232, the withheld information on this page should be released to the Applicant within 30 days of the issuance of this Report.

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[19] OIPC Review Report 056-2017 at paragraph [81].

[20] *Tarasoff v City of Saskatoon*, 2025 SKKB 41 at paragraph [67].

[21] OIPC Review Report 255-2022 at paragraph [85].

8. The application of section 15(1)(d) of *FOIP*

[41] OIPC now must consider the portions of nine pages PSC withheld under section 15(1)(d) of *FOIP*, which states:

> **Law enforcement and investigations**
> **15**(1) A head may refuse to give access to a record, the release of which could:
>
> …
> (d) be injurious to the Government of Saskatchewan or a government institution in the conduct of existing or anticipated legal proceedings.

[42] OIPC applies the following two-part test to determine whether a government institution properly applied the exemption:[22]

1. Do the proceedings qualify as existing or anticipated legal proceedings?
2. Could disclosure of the records be injurious to the government institution in the conduct of the legal proceedings?

[43] To assess the first part of the test, a basis must be established for the term "legal proceedings." Guidance has been given by the Saskatchewan Court of Queen's Bench, albeit with respect to the mirror provision of *The Local Authority Freedom of Information and Protection of Privacy Act*:[23]

> [44] …"Legal proceedings" have been defined and considered in the context of privacy law:
>
> > [10] Legal *proceedings* are proceedings governed by rules of court or rules of judicial or quasi-judicial tribunals that can result in a judgment of a court or a ruling by a tribunal. Legal proceedings include all proceedings authorized or sanctioned by law and brought or instituted in a court or legal tribunal, for the acquiring of a right or the enforcement of a remedy. *Saskatoon (City) (Re),* 2015 CanLII 6098 (SK IPC).
>
> [45] In *The Evidence Act*, SS 2006, c E-11.2, the Saskatchewan Legislature has

[22] OIPC Review Report 074-2025 at paragraph [40].

[23] *The Local Authority Freedom of Information and Protection of Privacy Act*, SS 1990-91, c. L 27.1, as amended. *Britto v University of Saskatchewan*, 2018 SKQB 92 at paragraphs [44] to [48].

> defined legal proceeding in two portions of s. 2:
>
> > "action" means:
> >
> > > (a) a civil proceeding commenced by statement of claim or in any other manner authorized or required by statute or rules of court; or
> > >
> > > (b) any other original proceeding between a plaintiff and a defendant; …
> >
> > …
> > "matter", in relation to proceedings in a court, means every civil proceeding that is not an action; …
>
> [46] In the *Canada Evidence Act*, RSC, 1985, c C-5, s. 30(12) defines "legal proceeding" as "any civil or criminal proceeding or inquiry in which evidence is or may be given, and includes an arbitration".
>
> [47] Labour grievances have been acknowledged to be "legal proceedings" for statutory purposes: *Park v Canada*, 2022 TCC 306.
>
> [48] Thus the modern definition of "legal proceeding" is relatively expansive and inclusive. It is not limited to the traditional lawsuit in a court. It can include matters taken before alternative boards and tribunals.

[44] Section 15(1)(d) of *FOIP* applies expansively to existing or anticipated legal proceedings, which can includes civil or criminal proceedings in which evidence may be given and in an arbitration. This exemption may also apply to proceedings governed by rules of court or judicial or quasi-judicial tribunals that can result in a ruling. The exemption includes all proceedings authorized by law and brought or instituted in a court or legal tribunal for acquiring a right or the enforcement of a remedy. To anticipate the legal proceeding means that it is more than merely possible.

[45] The Applicant submitted:

> … some records were redacted because it would be "injurious to anticipated legal proceedings." They were protecting their interests by hurting mine. They didn't just add insult to injury; they added injury to injury. It's entirely possible that if I had all the information I was entitled to, the Human Rights Commission mediation process — which I am still going through — would have played out differently. It's possible I would already have filed a statement of claim against the government.

[46] *FOIP* does not limit or replace any other disclosure scheme related to litigation outside the jurisdiction of *FOIP*. For this reason, a review commenced under *FOIP* cannot serve as a substitute for gaining access to records required for civil, criminal or any type of administrative litigation.[24] Rather, as the administrator of *FOIP*, OIPC may simply determine whether PSC has properly applied the exemptions afforded by *FOIP* in this case and nothing more.

[47] The Applicant confirmed that the Saskatchewan Human Rights Commission (SHRC) has been engaged with respect to this matter. PART 5 of *The Saskatchewan Human Rights Code, 2018*[25] provides a scheme to address a complaint that may result in an eventual hearing in a court of law.[26]

[48] Since it is apparent that both PSC and the Applicant are actively involved in legal proceedings at the current time, OIPC must consider whether disclosure of the withheld information could be injurious to PSC in the conduct of the legal proceedings. To support this claim, PSC asserted:

> The records … contain internal analysis, management assessments, and discussions regarding the applicant's work performance, operational impacts, and workplace management considerations. The records were created while PSC was addressing workplace matters. The redacted information reflects internal evaluations and discussions connected to those issues. … Where workplace matters remain under review and have the potential to proceed within formal legal or adjudicative processes, they may constitute reasonable anticipated legal proceeding for the purposes of subsection 15(1)(d) of FOIP. In this case, there is a reasonable prospect of further proceedings.

[49] PSC made four redactions under section 15(1)(d) of *FOIP* on page 75, a draft of speaking notes that was attached to an email. The speaking notes are in draft form and appear to have been crafted to be addressed in a conversation with the Applicant. A TED employee

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[24] OIPC Review Report 025-2026 at paragraph [20].

[25] *The Saskatchewan Human Rights Code, 2018* SS 2018, c S-24.2, as amended.

[26] *Ibid,* at section 34.

sent the draft to a PSC employee for "review" by that PSC employee. In the submission, PSC asserted:

> The redacted portions reflect internal analysis and management considerations regarding the conflict of interest determination and potential employment options. Disclosure of this information could reveal PSC's internal evaluation and decision making processes, which may create workplace issues and have the potential to lead to future proceedings.

[50] A review of the redacted information on page 75 confirms that withheld information contains assessments of factors that contributed to decisions about the Applicant's conflict-of-interest position and role within TED. In the event of legal proceeding about workplace matters, release of the withheld content on page 75 could be injurious to PSC. As such, both parts the test are met. The redacted information on page 75 should continue to be withheld.

[51] PSC also withheld content under section 15(1)(d) of *FOIP* on pages 141 to 144, two attachments that related to ongoing operational planning by TED. In the submission, PSC asserted:

> The redacted portions reflect internal operational planning, priority settings, and staffing considerations prepared for internal management purposes. Disclosure of this information could reveal PSC's internal evaluation and decision making processes, which may create workplace issues and have the potential to lead to future proceedings.

[52] This Report has established that the content of these redactions amount to agenda items and "to do" lists. The PSC has not fully explained how these items could reveal PSC's internal evaluation and decision making processes. As such, it is unclear how the disclosure of this information could be injurious to PSC in legal proceedings. The same is true for the content PSC withheld content on pages 165 to 167, pursuant to section 15(1)(d) of *FOIP*. PSC has not demonstrated that section 15(1)(d) of *FOIP* applies to pages 141 to 144 or 165 to 167. Given that no other exemptions were applied to the same information, OIPC recommends that PSC release the withheld content within 30 days of the issuance of this Report.

[53] PSC made one redaction on page 183, part of an attachment to an email message, under section 15(1)(d) of *FOIP*. The attachment is a document that PSC describes as a transcript from a Fact-Finding meeting involving a TED employee and the Applicant. The redacted portion is within a section called "Questions – Optional." In the submission, PSC asserted:

> The first redaction consists of the … overview of the workplace matter that was the subject of the fact-finding meeting. The section summarizes the management's understanding of the situation at the time, including reference to assigned work responsibilities, expected deliverables, and timelines…

[54] Based on a review of the record, the transcript appears to reflect precisely what the PSC has submitted. It is clear upon a review of the withheld information on page 183 that the legal position of the PSC could be in jeopardy should this excerpt be disclosed. It represents a position that the PSC will likely use in legal proceedings and it speaks to a very specific issue that may involve future legal strategy in those proceedings. The redaction on page 183 was properly withheld pursuant to section 15(1)(d) of *FOIP*.

9. The application of section 16(1) of *FOIP*

[55] Section 16(1) of *FOIP* is a mandatory exemption that requires a government institution to withhold information that is a "Cabinet Confidence."

[56] The Saskatchewan provincial Cabinet, also known as Executive Council, is a decision-making body that determines the provincial government's policies, priorities, legislative agenda, and budget. The Premier appoints Cabinet Ministers that possess a ministerial responsibility. Ministers lead Cabinet committees which aggregate and analyze information and recommend appropriate action to Cabinet as a whole.[27] Ministers perform these duties with the assistance of civil servants and Cabinet committees may establish advisory committees to achieve their goals.[28]

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[27] See the "Cabinet" article on the *Government of Saskatchewan* website.

[28] Pursuant to section 16 of *The Executive Government Administration Act*, SS 2014, c E-13.1, as amended.

[57] Information that constitutes a "Cabinet confidence" may be broadly defined as the privileged communications of Cabinet Ministers (either individually or collectively), the disclosure of which would make it difficult for Cabinet Ministers to address the legislature and the public.[29]

[58] PSC withheld two portions of page 175 of the record pursuant to the exemption under section 16(1) of *FOIP*:

> **Cabinet documents**
> **16**(1) A head shall refuse to give access to a record that discloses a confidence of the Executive Council, including:
>
> (a) records created to present advice, proposals, recommendations, analyses or policy options to the Executive Council or any of its committees;
>
> (b) agendas or minutes of the Executive Council or any of its committees, or records that record deliberations or decisions of the Executive Council or any of its committees;
>
> (c) records of consultations among members of the Executive Council on matters that relate to the making of government decisions or the formulation of government policy, or records that reflect those consultations;
>
> (d) records that contain briefings to members of the Executive Council in relation to matters that:
>
> (i) are before, or are proposed to be brought before, the Executive Council or any of its committees; or
>
> (ii) are the subject of consultations described in clause (c).

[59] Section 16(1) of *FOIP* uses the word "including", which signifies the list that follows is non-exhaustive. If none of the subclauses apply, the introductory wording for section 16(1) of *FOIP* must still be considered within an overall contextual consideration.[30]

[60] PSC submitted:

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[29] OIPC Review Report 308-2025 at paragraph [10].

[30] OIPC Review Report 280-2020 at paragraphs [9] and [10].

> The withheld portions of the record contain information that reveals Cabinet items and discussions relating to a government initiative. The content makes reference to materials that were prepared for a Cabinet subcommittee and would disclose the substance of Cabinet deliberations and discussions. Although the record was prepared internally by the Executive Director from TED, the redacted portions reference and reveal matters of concern to a subcommittee of the Executive Council. Disclosure would therefore reveal a confidence of Executive Council within the meaning of subsection 16(1).

[61] Based on a review of the record, the withheld content in the first redaction on page 175 relates to directions given to TED by an Executive Council subcommittee.[31] Those directions cite specific matters prepared for the consideration of Executive Council and, therefore, that content cannot be released. The withheld content in the second redaction on page 175 is commentary on the Applicant's work responsibilities about matters being prepared for the consideration of Executive Council. OIPC recognises that Executive Council requires time to solicit, evaluate, and clarify input from civil servants prior to arriving at decisions. The Supreme Court of Canada has provided valuable guidance on this very issue:[32]

> [49] The dynamic and fluid nature of Cabinet's deliberative process also means that not all stages of the process take place sitting around the Cabinet table behind a closed door. The decision-making process in Cabinet extends beyond formal meetings of Cabinet or its committees, and encompasses "[o]ne-on-one conversations in the corridors..., in the [first minister's] office..., over the phone, or however and wherever they may take place"...

[62] In this case, work that was expected to be produced to support Executive Council's deliberative process is, indeed, referenced in the second redaction on page 175. This is part of the spectrum of "Cabinet confidence," which includes not only *what* decisions are made, but also *how* decisions are to be made. Therefore, section 16(1) of *FOIP* applies, and PSC should withhold the information in the redactions on page 175.

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[31] The *Annual Regulatory Modernization Red Tape Reduction Progress Report 2024-2025* states at page 2 that the Red Tape Reduction Committee (RTRC) is a "dedicated Cabinet subcommittee."

[32] *Ontario (Attorney General) v. Ontario (Information and Privacy Commissioner)*, 2024 SCC 4 at paragraphs [46] to [49].

10. The application of section 22(a) of *FOIP*

[63] PSC withheld pages 23 to 29 and 32 to 55 under section 22(a) of *FOIP*, which states:

> **Solicitor-client privilege**
> **22** A head may refuse to give access to a record that:
>
> (a) contains any information that is subject to any privilege that is available at law, including solicitor-client privilege;

[64] It is accepted that solicitor-client privilege applies to records that involve communications between a solicitor and a client that entail the seeking or giving of legal advice within a sphere of confidentiality.[33] That ability to waive the privilege rests solely with the party in whom the solicitor-client privilege resides, that is solely the party that sought the legal assistance.[34] In this case, the privilege belongs to, and was asserted by, PSC. PSC submits that it sought and was provided legal advice and engaged in communications with its solicitors regarding the material contained within the records listed in the schedule provided to OIPC.[35] The schedule of records, dated March 23, 2026, outlined the date of each record, the author and recipients, and provided a brief explanation of the nature of the records in each document where the *prima facie* claim was made.

[65] PSC alleged a *prima facie* claim of solicitor client confidence with respect to the schedule of records by means of an affidavit dated March 23, 2026. The affidavit was sworn by an affiant who had direct knowledge of the material within. PSC submitted that a government lawyer and external legal counsel were retained by PSC. Several counsel were involved in the preparation of, and the communication of the legal advice in this matter. The Supreme Court of Canada has established that solicitor-client privilege applies equally to in-house

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[33] *Descôteaux et al. v. Mierzwinski*, [1982] 1 SCR 860 at pages 870-873; *Alberta (Information and Privacy Commissioner) v University of Calgary*, [2016] 2 SCR 555 at paragraphs [40] to [43].

[34] *R v McClure*, [2001] 1 SCR 445 at paragraph [37].

[35] The schedule of records, also dated March 23, 2026, outlined the date of the record, the author and recipients, and the nature of the records in each document where the *prima facie* claim was made.

counsel working on behalf of the government as well as to independent or private counsel.[36] OIPC confirmed that the lawyers were active and in good standing in Saskatchewan at the material time.

[66] The Applicant offered no evidence to the contrary to dispute the *prima facie* claim as asserted by the PSC and we can see no evidence on the record to support such a claim.

[67] OIPC is satisfied that PSC has met the required threshold. PSC has established a *prima facie* case and justified the application of section 22(a) of *FOIP* to the list of documents included in the schedule of records.

IV FINDINGS

[68] OIPC has jurisdiction under PART VII of *FOIP* to undertake this review.

[69] PSC adequately substantiated the need for a time extension, but it was three days outside of the legislated timeline pursuant to section 12 of *FOIP*.

[70] PSC properly identified the withheld portions of pages 56 and 57 as non-responsive.

[71] It would be an absurd result for PSC to apply exemptions to withhold portions of pages 185, 186 and 290.

[72] PSC properly applied sections 29(1), 17(1)(a), and 15(1)(d) of *FOIP* apply to some, but not all, withheld information.

[73] PSC did not properly apply section 17(1)(b)(i) of *FOIP* to the record.

[74] PSC properly applied section 16(1) of *FOIP* applies to the withheld information on page 175.

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[36] *Pritchard v. Ontario (Human Rights Commission)*, [2004] 1 SCR 809 at paragraphs [19] to [21].

[75] PSC established a prima facie case justifying the application of section 22(a) of *FOIP* to pages 23 to 29 and 32 to 55.

V RECOMMENDATIONS

[76] I recommend that PSC continue to withhold the information where it has been found an exemption was properly applied.

[77] I recommend that PSC release the withheld information as outlined in the Appendix to this Report. Where release is recommended, PSC should do so within 30 days of the issuance of this Report.

Dated at Regina, in the Province of Saskatchewan, this 11th day of September, 2026.

Grace Hession David
Saskatchewan Information and Privacy Commissioner

APPENDIX

Description of the Record	Page Number	Redaction Number	Exemptions Applied	OIPC Finding	OIPC Recommendation
Attachment to email – “Priorities”	141	1	Sections 17(1)(a), 17(1)(b)(i), and 15(1)(d) of *FOIP*.	Section 17(1)(a) of *FOIP* does not apply. Section 17(1)(b)(i) of *FOIP* does not apply. Section 15(1)(d) of *FOIP* does not apply.	Release.
	142	1	Sections 17(1)(a), 17(1)(b)(i), and 15(1)(d) of *FOIP*.	Section 17(1)(a) of *FOIP* does not apply. Section 17(1)(b)(i) of *FOIP* does not apply. Section 15(1)(d) of *FOIP* does not apply.	Release.
Attachment to email – “Notes”	143	1	Sections 17(1)(a), 17(1)(b)(i), and 15(1)(d) of *FOIP*.	Section 17(1)(a) of *FOIP* does not apply. Section 17(1)(b)(i) of *FOIP* does not apply.	Release.

				Section 15(1)(d) of *FOIP* does not apply.	
	144	1	Sections 17(1)(a), 17(1)(b)(i), and 15(1)(d) of *FOIP*.	Section 17(1)(a) of *FOIP* does not apply. Section 17(1)(b)(i) of *FOIP* does not apply. Section 15(1)(d) of *FOIP* does not apply.	Release.
		2	Sections 17(1)(a), 17(1)(b)(i), and 15(1)(d) of *FOIP*.	Section 17(1)(a) of *FOIP* does not apply. Section 17(1)(b)(i) of *FOIP* does not apply. Section 15(1)(d) of *FOIP* does not apply.	Release.
		3	Sections 17(1)(a), 17(1)(b)(i), and 15(1)(d) of *FOIP*.	Section 17(1)(a) of *FOIP* does not apply. Section 17(1)(b)(i) of *FOIP* does not apply.	Release.

				Section 15(1)(d) of *FOIP* does not apply.	
Email thread	165	1	Sections 17(1)(a), 17(1)(b)(i), and 15(1)(d) of *FOIP*.	Section 17(1)(a) of *FOIP* does not apply. Section 17(1)(b)(i) of *FOIP* does not apply. Section 15(1)(d) of *FOIP* does not apply.	Release.
	166	1	Sections 17(1)(a), 17(1)(b)(i), and 15(1)(d) of *FOIP*.	Section 17(1)(a) of *FOIP* does not apply. Section 17(1)(b)(i) of *FOIP* does not apply. Section 15(1)(d) of *FOIP* does not apply.	Release.
		2	Sections 17(1)(a), 17(1)(b)(i), and 15(1)(d) of *FOIP*.	Section 17(1)(a) of *FOIP* does not apply. Section 17(1)(b)(i) of *FOIP* does not	Release.

				apply. Section 15(1)(d) of *FOIP* does not apply.	
	167	1	Sections 17(1)(a), 17(1)(b)(i), and 15(1)(d) of *FOIP*.	Section 17(1)(a) of *FOIP* does not apply. Section 17(1)(b)(i) of *FOIP* does not apply. Section 15(1)(d) of *FOIP* does not apply.	Release.
		2	Sections 17(1)(a), (b)(i), and 15(1)(d) of *FOIP*.	Section 17(1)(a) of *FOIP* does not apply. Section 17(1)(b)(i) of *FOIP* does not apply. Section 15(1)(d) of *FOIP* does not apply.	Release.
Attachment to email – “Fact Finding Meeting Notes”	185	1	Sections 17(1)(a) and 15(1)(d) of *FOIP*	This constitutes an absurd result.	Release.
	186	1	Sections 17(1)(a) and 15(1)(d) of *FOIP*	This constitutes an absurd result.	Release.

		2	Sections 17(1)(a) and 15(1)(d) of *FOIP*	This constitutes an absurd result.	Release.
Email thread	232	1	Sections 17(1)(a) and 17(1)(b)(i) of *FOIP*	Section 17(1)(a) of *FOIP* does not apply. Section 17(1)(b)(i) of *FOIP* does not apply.	Release.
Notes	290	1	Section 29(1) of *FOIP*	This constitutes an absurd result.	Release.