



Office of the
Saskatchewan Information
and Privacy Commissioner

REVIEW REPORT 297-2021

Ministry of Justice and Attorney General

December 16, 2022

Summary: The Applicant was dissatisfied with the response they received from the Ministry of Justice and Attorney General (Justice) regarding their access to information request, so requested a review by the Commissioner. The Commissioner found that Justice did not comply with section 12 of *The Freedom of Information and Protection of Privacy Act* (FOIP). The Commissioner recommended that when Justice is providing a notice to extend the response time pursuant to section 12 of FOIP, it does so within 30-days of receipt of the request. The Commissioner also found as Justice did not search the Sheriff's Office records, it did not identify all records that were responsive to the access to information request. The Commissioner recommended that within 30 days of issuance of this Report, Justice provide a copy of the January 26, 2017 email chain to the Applicant. The Commissioner also recommended that within 30 days of issuance of this Report that Justice conduct a search of the Saskatoon Sheriff's Office, including the email account of the Deputy Sheriff named in the Applicant's request. Finally, the Commissioner recommended if Justice locates additional records, it provide them to the Applicant.

I BACKGROUND

[1] The Applicant made a handwritten access to information request to the Ministry of Justice and Attorney General (Justice) on April 14, 2021. Justice spoke with the Applicant on April 21, 2021 and requested they type the request. The Applicant emailed the typed request to Justice on April 21, 2021, requesting access to:

Requesting:
My own personal information

And general information

FROM:

INFORMATION SERVICES CORPORATION (ISC) between the years of (2014-2020):

I wish to receive ANY documentation or records pertaining to judgements or discharges assigned to property #[Number removed], which may have been Title Number [number removed] in the past, or Lot 10-Blk/20-Plan [number removed] by [lawyer name removed] or any employee of [law firm name removed] (Regina, Sask) assisted by Acting Sheriff [name removed], Saskatoon, Sask, Department of Justice or any staff related to the Department of Justice in Regina, Sask. and the “[financial institution removed]” (specifically THE PERSON BEHIND THAT PROCURED these Judgements from the[financial institution removed]) and could be under several names which are:

[multiple names removed]

This could include a vehicle [vehicle make and model removed], VIN [VIN number removed]. Documentation passed from someone in [financial institution removed] to [lawyer name removed] ([law firm name removed]) then to Sheriff [name removed] in Saskatoon, SASK, or Department of Justice or Sherriff in Regina, Sask. This could be several papers with inconsistent numbers about amount owing.

I want emails and requests by email, that was RECEIVED by the ISC and acknowledged, that I SENT to the ISC office (ask@isc.ca, [name removed], Reg Ops) from email addresses: [multiple email addresses removed], regarding the above property and vehicle.

I also wish to receive information regarding computer systems at ISC that were breached and causing problems in my communications with ISC from 2014-2020.

- [2] By letter dated May 17, 2021, Justice extended its response time by an additional 30 days pursuant to subsections 12(1)(a)(i) and (ii) of *The Freedom of Information and Protection of Privacy Act* (FOIP).
- [3] By letter dated June 11, 2021, Justice responded to the Applicant’s request. The decision letter advised the Applicant that their request had been fully granted. However, it also advised the Applicant, in part:

A portion of your request is seeking records from outside agencies, [Justice] does not have access to those agency records.

- [4] On November 15, 2021, the Applicant requested a review of Justice’s decision.
- [5] By email on December 7, 2021, my office notified Justice and the Applicant of my office’s intention to undertake a review and invited both parties to make a formal submission. In response to my office’s notice, Justice provided its formal submission on March 2, 2022. The Applicant did not provide a formal submission.

II RECORDS AT ISSUE

- [6] The review will consider if Justice complied with section 12 of FOIP. This review will also consider if Justice identified all records responsive to the Applicant’s request. As such, there are no records at issue.

III DISCUSSION OF THE ISSUES

1. Do I have jurisdiction?

- [7] Justice is a “government institution” pursuant to subsection 2(1)(d)(i) of FOIP. Therefore, I find I have jurisdiction to conduct this review.

2. Did Justice comply with section 12 of FOIP?

- [8] Subsection 7(2) of FOIP requires a government institution to respond to an applicant within 30 calendar days of receiving an access to information request unless the response deadline was extended pursuant to section 12 of FOIP. Subsection 7(2) of FOIP provides:

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

- [9] Section 12 of FOIP is clear that a government institution can extend the 30-day response deadline up to an additional 30 days – meaning 60 days in total. However, a limited circumstance must exist, which are outlined in subsection 12(1) of FOIP (*Guide to FOIP*,

Chapter 3: “Access to Records”, updated: June 29, 2021 [*Guide to FOIP*, Ch. 3]), at page 72.

- [10] By letter dated May 17, 2021, Justice extended the response time for the Applicant’s request 30 days pursuant to subsections 12(1)(a)(i) and (ii) of FOIP. Subsections 12(1)(a)(i) and (ii) and section 12(2) of FOIP provide:

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:

(a) where:

(i) the application is for access to a large number of records or necessitates a search through a large number of records; or

(ii) there is a large number of requests;

...

(2) A head who extends a period pursuant to subsection (1) shall give notice of the extension to the applicant within 30 days after the application is made.

- [11] My office’s [Review Report 152-2020](#) provides the following regarding the calculation of time:

[11] ...In terms of calculating the due date, The Legislation Act establishes general rules that govern the interpretation of all statutory instruments in the province. Section 2-28 of The Legislation Act provides guidance on the computation of time and can be applied to the 30 day calculation as follows:

- The first day the access request is received is excluded in the calculation of time;
- If the due date falls on a holiday, the time is extended to the next day that is not a holiday;
- If the due date falls on a weekend, the time is extended to the next day the office is open; and
- As LA FOIP [and FOIP] expresses the time in a number of days, this is interpreted as 30 calendar days, not business days.

[12] As noted above, subsection 12(2) of FOIP provides that a notice of extension must be provided to an applicant within the first 30 days after the government institution receives the request. Justice received the Applicant's access to information request on April 14, 2021. Therefore, a notice of extension was to be provided within 30 days or by May 14, 2021. However, Justice issued its notice of extension letter on May 17, 2021. As Justice provided its notice late, it did not comply with subsection 12(2) of FOIP.

[13] As Justice did not comply with subsection 12(2) of FOIP, I do not need to consider if its reason for the extension was appropriate. Therefore, I find Justice did not comply with section 12 of FOIP. I recommend that when Justice is providing a notice to extend its response time pursuant to section 12 of FOIP, it does so within 30-days of receipt of the request.

3. Did Justice identify all records that were responsive to the access to information request?

[14] In this matter, Justice asked the Applicant to clarify their access to information request. The Applicant asserts the clarification resulted in Justice not providing them with records responsive to all parts of their access to information request.

[15] When a government institution contacts an applicant to clarify the details of what is being requested, it is part of its duty to assist. Subsection 5.1(1) of FOIP provides:

5.1(1) Subject to this act and the regulations, a government institution shall respond to a written request for access openly, accurately and completely.

[16] In its submission, Justice asserted:

The Ministry received an access to information request on April 14, 2021, seeking records from [Information Services Corporation (ISC)] ... There were three parts to the initial request which sought information about government institutions, non-government third parties, as well as information pertaining to ISC's computer system. For instance, the Applicant mentioned they were seeking information about private lawyers and the [financial institution removed]. Regarding the request relating to ISC's computer system, it was unclear to ISC if the Applicant was seeking ISC business

records or ISC computer system records. Also, because the initial request was handwritten, some of the names of individuals listed in the request were illegible. It was essential to get clarification from the Applicant in order to understand the exact records they were seeking.

Upon an initial search for records, ISC informed the Ministry that some records were held by the Ministry. Because the Ministry has a duty to assist and wanted to make sure the Applicant received the records they were looking for, it reached out to the Applicant on April 15, 2021 to provide them this update. The Applicant called back on April 20, 2021 and left a voice message. The Applicant was contacted again on April 21, 2021, for clarification and was also advised to include the Ministry on their request. The Applicant at the time, verbally confirmed they were seeking records from both ISC and the Ministry. The Applicant sent an email with the details of the request including the exact records they were seeking...

The clarification helped provide background information to the Applicant as well help the Ministry to identify the records requested by the Applicant. The Ministry submits that it was necessary to work with the Applicant to provide them with more background information, to clarify the request, and to help identify the records they were looking for.

- [17] My office spoke with Justice about the Applicant's initial request of April 14, 2021, and the Applicant's typed request of April 21, 2021. Justice advised my office that it made attempts to contact the Applicant between the dates of April 14 and April 20, 2021, and spoke with the Applicant on April 21, 2021. Justice stated it asked the Applicant to type out their request to help with its search of the names listed.
- [18] From a review of the handwritten request, it was legible. However, Justice contacted the Applicant to ensure it understood the scope of the request. By reaching out to the Applicant, Justice was taking the necessary steps to respond to the request in an accurate manner. "Accurate" means careful; precise; lacking errors. It also includes understanding what the applicant is actually looking for. In part, responding in an accurate manner means clarifying the nature of the access to information request (*Guide to FOIP*, Ch. 3, p. 16). In so doing, Justice met its duty to assist.
- [19] Regarding the Applicant's assertion that the clarification resulted in a scope change, it appears that their typed request provided more or better detail, and Justice was able to then

respond. I am not convinced the clarification altered the scope – it just helped provide clarity.

- [20] Moving onto the issue of whether Justice did not identify records that were responsive to the access request, I would first like to describe the relationship between Justice and the Information Services Corporation (ISC). The Applicant's request relates to access to information available on a Government of Saskatchewan public registry. *The Operation of Public Registry Statutes Act* (OPRSA) establishes the relationship between the Government of Saskatchewan and a "contractor". Subsection 2(1)(a) of OPRSA provides the definition of "contractor" as follows:

2(1) In this Act:

(a) "**contractor**" means, with respect to a public registry statute, a person with whom the minister has entered into a service agreement;

- [21] ISC is the "contractor" who oversees several public registries for the Government of Saskatchewan. However, ownership of that information remains with the Government of Saskatchewan. Subsection 11(1) of OPRSA provides:

11(1) All information and records in the registries are the property of the Government of Saskatchewan.

- [22] Justice is the administrator of OPRSA for the Government of Saskatchewan and has established the Office of Public Registry Administration (OPRA) within Justice. A Summary of OPRSA can be found on Publications Saskatchewan (office of the King's Printer) website as follows:

The Operation of Public Registry Statutes Act:

- Created the Office of Public Registry Administration;
- Allowed the Government of Saskatchewan to enter into a service agreement with a business corporation, Information Services Corporation (ISC), to operate and manage the public registries on behalf of the Government;
- Maintained Government ownership of all registry data;
- Continued Government guarantee of title and assurance coverage for certain errors on title;

- Maintained the quasi-judicial decision-making within Government by requiring the registry officers (Registrar of Titles, Controller of Surveys, Director of Corporations, Registrar of Cooperatives, and Registrar of Personal Property Security) to be employed by the Government; and

...

The service agreement with ISC covers the Land Registry, the Land Surveys Directory, the Personal Property Registry, the Corporate Registry, and the Common Business Identifiers Program (CBI).

The Public can access these registries through ISC, but Government retains ultimate responsibility for the registries. The procedures for registering or searching documents in the public registries and the legal rights of people using public registries remain unchanged.

...

(<https://publications.saskatchewan.ca/#/products/114854> accessed on December 9, 2022)

[23] Section 5 of FOIP outlines an individual's right to access records as follows:

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

[24] As described above, a portion of the Applicant's request related to information maintained by ISC in the public registry. However, Justice still maintains control of the information.

[25] The Applicant asserts that they believe there were missing email correspondence between the Applicant and the Saskatoon Deputy Sheriff specifically from the following dates:

- June 20, 2016
- November 15, 2016
- January 26, 2017
- May 25, 2017

[26] In its submission, Justice asserts:

The Applicant is seeking email communication between themselves and a particular Employee which would not have been captured under the initial request which sought all documentation or records "pertaining to judgement assigned to property [number] by [name] assisted by [Employee]. The parameters provided by the Applicant for the

initial request pertain to the judgement about a specific property and a particular vehicle. Any other emails or communication outside these parameters are outside the scope of the request.

The Ministry provided a response to the IPC stating that the issue brought forward by the Applicant was outside the scope of the initial request. Although the Ministry interpreted the request as being outside the parameters of the initial request, it was open to working with the Applicant.

- [27] My office sought clarification from Justice about the missing records. Under the direction of Justice, ISC conducted an additional search for records responsive to the request. As a result of this search, ISC located the above-noted January 26, 2017 email chain.
- [28] As of the date of this Report, I understand Justice has not disclosed this email correspondence to the Applicant. Therefore, I recommend that within 30 days of issuance of this Report, Justice provide a copy of the January 26, 2017 email chain to the Applicant.
- [29] I would now like to address the three remaining alleged missing emails. As noted in the Justice submission quoted in the previous section of this Report, “the Applicant was contacted again on April 21, 2021, for clarification and was also advised to include the Ministry [Justice] on their request.”
- [30] The Deputy Sheriff in question is an employee of Justice and not an employee of ISC. However, it does not appear that Justice has conducted a search of that employee’s email records. As the Applicant would like records of ISC and Justice, Justice should now conduct a search of those records.
- [31] Therefore, I find as Justice did not search the Sheriff’s office records, it did not identify all records that were responsive to the access to information request. I recommend that within 30 days of issuance of this Report that Justice conduct a search of the Saskatoon Sheriff’s Office, including the email account of the Deputy Sheriff named in the Applicant’s request. If Justice locates those additional records, I recommend it provide them to the Applicant.

IV FINDINGS

[32] I find I have jurisdiction to conduct this review.

[33] I find Justice did not comply with section 12 of FOIP.

[34] I find as Justice did not search the Sheriff's office records, it did not identify all records that were responsive to the access to information request.

V RECOMMENDATIONS

[35] I recommend that when Justice is providing a notice to extend the response time pursuant to section 12 of FOIP, it does so within 30-days of receipt of the request.

[36] I recommend that within 30 days of issuance of this Report, Justice provide a copy of the January 26, 2017 email chain to the Applicant.

[37] I recommend that within 30 days of issuance of this Report that Justice conduct a search of the Saskatoon Sheriff's Office, including the email account of the Deputy Sheriff named in the Applicant's request.

[38] I recommend if Justice locates additional records, it provide them to the Applicant.

Dated at Regina, in the Province of Saskatchewan, this 16th day of December, 2022.

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