



REVIEW REPORT 300-2023

Ministry of Corrections, Policing and Public Safety

July 12, 2024

Summary:

The Applicant submitted an access to information request to the Ministry of Corrections, Policing and Public Safety (Corrections). Corrections responded by providing the Applicant with access to records but refused access to some portions. Corrections cited subsections 15(1)(m), 17(1)(a), (b) and 29(1) of *The Freedom of Information and Protection of Privacy Act* and subsection 27(1) of *The Health Information Protection Act* as its reasons for refusing the Applicant access to portions of the records. The Applicant requested a review by the Commissioner. The Commissioner made a number of findings, including that Corrections properly applied each of the exemptions in some circumstances but not in all. The Commissioner summarized his findings and recommendations in an Appendix and recommended that Corrections release or withhold records as detailed in the Appendix within 30 days of issuance of this Report.

I BACKGROUND

[1] On February 21, 2023, the Ministry of Corrections, Policing and Public Safety (Corrections) received the following access to information request from the Applicant:

All emails, documents, reports, employee records, or other media related to “[First and last name of Applicant]”.

It is the intent of this FOIP to receive appropriate disclosure of materials related to [First and last name of Applicant]. Personal emails sent to or received by [First and last name of Applicant] are not requested. All other electronic correspondence is relevant to this request.

[2] The Applicant stated that the time period of the records they sought was, “March 9, 2022 to present”.

- [3] The next day, on February 22, 2023, Corrections sent a letter to the Applicant seeking clarification on what records they sought pursuant to subsection 6(3) of *The Freedom of Information and Protection of Privacy Act* (FOIP).
- [4] Then, the Ministry and the Applicant exchanged emails in efforts to clarify the access request as well as to discuss a possibility of a fee waiver.
- [5] On May 12, 2023, after a telephone discussion, the Applicant amended their access request to the following:
- all records from the Regina Correctional Centre, apart from emails that I have sent or received, not only from Directors. All records from Directors/executive branch of Custody March 9, 2022 to Present
- [6] On June 1, 2023, Corrections sent a letter to the Applicant indicating it was extending the 30-day response period by an additional 30 days pursuant to subsection 12(1)(a)(ii) of FOIP.
- [7] In a letter dated June 30, 2023, Corrections responded to the Applicant. It enclosed a copy of records, portions of which were redacted. Correction cited subsections 15(1)(m), 17(1)(a), (b), and 29(1) of FOIP and subsection 27(1) of *The Health Information Protection Act* (HIPA) as its reasons for refusing access to portions of the records.
- [8] On November 24, 2023, the Applicant requested a review by my office of the exemptions applied to the records.
- [9] On December 22, 2023, my office notified Corrections and the Applicant that my office would be undertaking a review.
- [10] On March 13, 2024, Corrections provided my office with a submission explaining its position on the issues in this review. The Applicant did not provide a submission.

II RECORDS AT ISSUE

[11] The records at issue consists of 103 pages. It consists mostly of emails and their attachments as well as a copy of an incident report. As summarized in the Appendix, some of the pages were withheld in part pursuant to subsections 15(1)(m), 17(1)(a), (b) and/or 29(1) of FOIP and/or subsection 27(1) of HIPA.

III DISCUSSION OF THE ISSUES

1. Do I have jurisdiction?

a. FOIP

[12] Corrections qualifies as a “government institution” pursuant to subsection 2(1)(d)(i) of FOIP. Therefore, I find that I have jurisdiction to conduct this review.

b. HIPA

[13] Corrections cited subsection 27(1) of HIPA as a reason for withholding portions of records. Therefore, I need to determine if HIPA is engaged. HIPA is engaged when three elements are present: 1) personal health information, 2) a trustee and 3) the trustee has custody or control over the personal health information.

[14] First, Corrections applied subsection 27(1) of HIPA to pages 1, 4 and 6 of the records at issue. I note that pages 1 and 4 contains information describing injuries and treatment received by corrections officers. I find that such information qualifies as personal health information as defined by subsection 2(1)(m)(i) and (ii) of HIPA. Subsection 2(1)(m)(i) and (ii) of HIPA provides:

2(1) 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;

(ii) information with respect to any health service provided to the individual;

[15] Page 6 will be considered in my office's analysis of subsection 29(1) of FOIP later in this Report.

[16] Second, Corrections qualifies as a "trustee" as defined by subsection 2(1)(t)(i) of HIPA, which says:

2(1) In this Act:

...

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

(i) a government institution;

[17] Third, pages 1 and 4 were records authored by Corrections' employees and produced from its records holdings. Therefore, Corrections has custody and control over this personal health information.

[18] Since all three elements are present, I find that HIPA is also engaged.

2. Did Corrections properly apply subsection 15(1)(m) of FOIP?

[19] Corrections applied subsection 15(1)(m) of FOIP to pages 1, 4, 7 and 35.

[20] Subsection 15(1)(m) of FOIP provides:

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

...

(m) reveal the security arrangements of particular vehicles, buildings or other structures or systems, including computer or communication systems, or methods employed to protect those vehicles, buildings, structures or systems.

[21] My office uses the following test to determine if subsection 15(1)(m) of FOIP applies. Only one of the questions in the test needs to be met in order for the exemption to apply. There may be circumstance where both questions apply.

1. Could the release of information reveal security arrangements (of particular vehicles, buildings, other structures, or systems)?
2. Could the release of information reveal security methods employed to protect the particular vehicles, buildings, other structures, or systems?

(*Guide to FOIP*, Chapter 4: “Exemptions from the Right of Access”, updated April 8, 2024 [*Guide to FOIP*, Ch. 4], pp. 90-91)

[22] In its submission, Corrections indicated that the release of information on pages 1, 4, 7 and 35, would reveal security arrangements within the correctional facility. Therefore, I will determine if information on these four pages meets the first part of the test.

[23] Page 91 of the *Guide to FOIP*, Ch. 4, describes the word “could” as follows:

Section 15 of FOIP uses the word “could” versus “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 the assertion. If it is fanciful or exceedingly remote, the exemption should not be invoked. **For this provision to apply there must be objective grounds for believing that disclosing the information could reveal security arrangements of particular vehicles, buildings, other structures, or systems.**

[Emphasis added]

[24] Pages 90 and 91 of my office’s *Guide to FOIP*, Ch. 4, provide the following definitions:

- “Reveal” means to make known; cause or allow to be seen.
- “Security” means a state of safety or physical integrity. The security of a building includes the safety of its inhabitants or occupants when they are present in it.

[25] In its submission, Corrections said:

On these pages, the code type and its classification meaning have been withheld. Specific codes are associated with security arrangements and signify to those receiving the communication, what type of security action is required. The release of the codes, along with the circumstances that led to the codes being called, could reveal security and tactical arrangements.

Portions of the record on page 1 and 4 have been withheld because it outlines what occurred during the incident at the correctional facility. The information sets out actions specifically taken by all those involved in the incident, including how the Corrections Officers were able to restrain individuals involved and get the situation under control. Release of this information could result in the identification of potential gaps in security procedures and responses already in place. For example, the release could allow individuals to more easily predict how Correctional Officers may respond to an incident and anticipate gaps or weak points in that response.

[26] Corrections redacted the code type on pages 1, 4 and 7 of the records at issue. As explained by Corrections, it signifies a particular type of security action required at the correctional facility. In my office's [Review Report 330-2023, 334-2023](#) at paragraph [76] to [80], Corrections had made a similar argument that disclosing information would reveal security and tactical arrangements. However, in that report, I found that the content did not describe security and tactical arrangements. Similarly, based on a review of pages 1 and 4, the description of the actions taken by the Corrections Officers during the incident appear to be specific to the incident itself. It describes actions taken by inmates and how the Corrections Officers responded. It does not describe standard procedures that would be taken at every incident that occurred at the correctional facility. Page 7 merely mentions the code type but does not describe any security arrangement associated with the code type. Therefore, I find that Corrections did not properly apply subsection 15(1)(m) of FOIP to pages 1, 4 and 7.

[27] Corrections also applied subsection 15(1)(m) of FOIP to page 35. In its submission, Corrections asserted that the release of information on page 35 would reveal security methods employed to protect the correctional facility. Therefore, I will determine if the information on page 35 answers the second question of the test.

[28] Earlier, I defined the terms “reveal” and “security”. Page 91 of my office’s *Guide to FOIP*, Ch. 4, defines the word “method” as a “a mode of organizing, operating, or performing something”. In its submission, Corrections said:

Information on page 35 was redacted because it details a security method used in relation to certain incidents in the correctional facility. Force Options Training techniques for when specific codes are called would reveal security arrangements and strategies used. The release of Force Options Training techniques and the descriptive use of shields could reveal security arrangements and tactics within a correctional facility.

[29] My office reviewed page 35. Page 35 contains a summary of training undertaken by Corrections Officers. It includes a list of topics covered in the training. However, page 35 does not contain any security method. I find that Corrections did not properly apply subsection 15(1)(m) of FOIP to page 35 of FOIP.

[30] My recommendations are set out in the Appendix.

3. Did Corrections properly apply subsection 17(1)(a) of FOIP?

[31] Corrections applied subsection 17(1)(a) of FOIP to portions of pages 4, 6 to 7, 9, 10, 15, 18 to 20, 23, 28 to 33, 35, 36, 39, 40, 44 to 46, 50 to 52, 57, 58, 66 to 68, 70, 72, 74 to 80, 89 to 91, 93 to 95, 97 and 99.

[32] Subsection 17(1)(a) of FOIP provides:

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;

[33] Pages 125 to 128 of the *Guide to FOIP*, Ch. 4, outline the following two-part test to determine if subsection 17(1)(a) of FOIP applies:

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

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

[34] Below is an analysis to determine if the two-part test is met:

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

[35] Pages 125 to 127 of *Guide to FOIP*, Ch. 4, provide the following definitions:

- “Advice” is guidance offered by one person to another. It can include the analysis of a situation or issue that may require action and the presentation of options for future action, but not the presentation of facts. Advice encompasses material that permits the drawing of inferences with respect to a suggested course of action, but which does not itself make a specific recommendation. It can be an implied recommendation. The “pros and cons” of various options also qualify as advice. It should not be given a restricted meaning. Rather, it should be interpreted to include an opinion that involves exercising judgement and skill in weighing the significance of fact. It includes expert opinion on matters of fact on which a government institution must make a decision for future action.
- A “proposal” is something offered for consideration or acceptance.
- “Analyses” (or analysis) is the detailed examination of the elements or structure of something; the process of separating something into its constituent elements.
- “Policy options” are lists of alternative courses of action to be accepted or rejected in relation to a decision that is to be made. They would include matters such as the public servant’s identification and consideration of alternative decisions that could be made. In other words, they constitute an evaluative analysis as opposed to objective information.
- “Developed by or for” means the advice, proposals, recommendations, analyses and/or policy options must have been created either: 1) within the government institution, or 2) outside the government institution but for the government institution and at its request (for example, by a service provider or stakeholder).

[36] In its submission, Corrections said:

Some records contain analyses about the Force Options In-Service Training that took place. Several training topics were discussed along with analyzing the outcomes the

training had on participants. The records in this category are: record 22, pages 33, 35 & 36.

Some records contain guidance, which equates to advice as to how to exercise judgement in certain situations and also include experts opinions as to what type of action should be taken in future situations.

The records that contain advice in this category are: record 4, pages 6 – 7; record 6, page 9; record 10, page 15I [sic]; record 13, page 18; record 14, page 19; record 15, page 20; record 17, page 23; record 21, pages 28 – 32; record 24, pages 39 – 40; record 28, page 44; record 29, page 45; record 30, page 46; record 32, pages 50 -52; record 34, pages 56 – 58; record 38, pages 66 – 67; record 39, page 68; record 40, pages 70 – 71; record 41, page 72; record 42, pages 74 -78; record 43, pages 79 - 80; record 47, pages 89 – 91; record 48, pages 93 - 94; record 49, page 95; record 50, page 97; and record 52, page 99.

A request to handle a situation in a specific manner qualifies as a proposal or recommendation for consideration. One record contains an email sent with proposed messaging or wording for communicating with the Applicant. The action of sending proposed wording or messaging for consideration falls within the meaning of a proposal or recommendation.

The record that contains a proposal in this category is: record 52, page 99.

[37] My office reviewed the pages set out in paragraph [31]. Based on that review, my office determined that the body of the email timestamped 11:37:21 a.m. on page 99 contains a recommendation. An employee provides a recommendation to the Deputy Director on how to draft correspondence. I will determine if the body of this email meets the second part of the two-part test.

[38] Before I do, I note that Corrections applied subsection 17(1)(a) of FOIP to email bodies throughout the records at issue. However, there were no other instances in which the contents to which Corrections applied the exemption qualified as advice, recommendations, proposals, analyses or policy options. The bodies of the emails appear to be asking for what had occurred, asking for factual information, or setting up meetings. For example, page 30 contains emails about what happened during the workday. Further, page 52 contains an email where the Director of Occupational Health & Safety asks a manager to send factual information about when a particular action was taken. Finally, page 10 contains an email exchange about setting up a meeting. These are all examples of how

the contents do not qualify as advice, recommendations, proposals, analyses or policy options.

[39] Further, some of the email bodies contain questions from an employee to another about what to do. For example, at page 15, an employee of the correctional facility asks the Deputy Director for direction about scheduling. Seeking direction from a director is not advice, recommendations, proposals, analyses or policy options.

[40] With the exception of the email timestamped 11:37:21 a.m. on page 99, I find that Corrections did not properly apply subsection 17(1)(a) of FOIP to the records at issue. I will now consider if the email timestamped 11:37:21 a.m. meets the second part of the two-part test.

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

[41] Page 131 of my office's *Guide to FOIP*, Ch. 4 defines "developed by or for" as follows:

"Developed by or for" means the advice, proposals, recommendations, analyses and/or policy options must have been created either: 1) within the government institution, or 2) outside the government institution but for a government institution and at its request (for example, by a service provider or stakeholder).

[42] Based on a review of the email timestamped 11:37:21 a.m. on page 99, the recommendation was developed by an employee of a government institution. Therefore, the second part of the two-part test is met. I find that Corrections properly applied subsection 17(1)(a) of FOIP to the body of the email timestamped 11:37:21 a.m. on page 99 of the records at issue. My findings and recommendations are set out in the Appendix.

4. Did Corrections properly apply subsection 17(1)(b)(i) of FOIP?

[43] Corrections applied subsection 17(1)(b)(i) of FOIP to the same portions of records as it applied subsection 17(1)(a) of FOIP. That is, Corrections applied subsection 17(1)(b)(i) of

FOIP to pages 4, 6 to 7, 9, 10, 15, 18 to 20, 23, 28 to 33, 35, 36, 39, 40, 44 to 46, 50 to 52, 57, 58, 66 to 68, 70, 72, 74 to 80, 89 to 91, 93 to 95, 97 and 99.

[44] Subsection 17(1)(b)(i) of FOIP provides:

17(1) Subject to subsection (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;

[45] My office uses the following two-part test to determine if subsection 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?

(*Guide to FOIP*, Ch. 4, pp. 137-138)

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

1. Does the record contain consultations or deliberations?

[47] Pages 136 and 137 of my office's *Guide to FOIP*, Ch. 4, provide the following definitions:

- "Consultation" means the action of consulting or taking counsel together: deliberation, conference; a conference in which the parties consult and deliberate. A consultation can occur 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. It can include consultations about prospective future actions and outcomes in response to a developing situation. It can also include past courses of action. For example, where an employer is considering what to do with an employee in the future, what has been done in the past can be summarized and would qualify as part of the consultation or deliberation.
- "Deliberation" means the action of deliberating (to deliberate: to weigh in mind; to consider carefully with a view to a decision; to think over); careful consideration

with a view to a decision; A deliberation can occur when there is a discussion or consideration of the reasons for or against an action. It can refer to discussions conducted with a view towards making a decision.

- “Involving” means including.
- “Officers or employees of a government institution”: “Employee of a government institution” means an individual employed by a government institution and includes an individual retained under a contract to perform services for the government institution.

[48] In its submission, Corrections said:

In *Leo v. Global Transportation Hub Authority*, 2019 SKQB 150 at paras. 40-41, although the Court acknowledged that this exemption “is not meant to protect the bare recitation of facts”, it also indicated that consultations “may include background materials that inform the advisors about matters relative to which advice is being sought”. It is submitted that, in the internal discussion of matters analysed or matters for which advice has been sought, there will be facts intertwined with opinion and information gathered to inform the discussion that, if revealed, would reveal the substance of the discussion.

The records this exemption has been applied to fall into the following categories with examples referenced.

Some records contain consultations with regard to planned actions or processes. Seeking the views and input from other government employees as to a planned course of action qualifies as a consultation within the meaning of FOIP. In some instances, background information upon which the consultations have been based are redacted because its release would lead to the drawing of accurate inferences as to the content of the consultations. The records that contain consultations in this category are as follows: record 3, page 4; record 4, page 6 – 7; record 6, record 7, page 10; page 9; record 10, page 15; record 13, page 18; record 14, page 19; record 15, page 20; record 17, page 23; record 21, pages 28 – 32; record 22, pages 33, 35-36; record 24, pages 39 – 40; record 28, page 44; record 29, page 45; record 30, page 46; record 32, pages 50 -52; record 34, page 56 – 58; record 38, pages 66 – 67; record 39, page 68; record 40, pages 70 – 71; record 41, page 72; record 42, pages 74 -78; record 43, pages 79 - 80; record 47, pages 89 – 91; record 48, pages 93 - 94; record 49, page 95; and record 50, page 97.

The information redacted on page 99 involves the consultation between two government employees on proposed messaging or wording. The action of sending proposed wording or messaging to other employees of a government institution as advice or to gather the views of those individuals falls within the meaning of a consultation.

[Emphasis added]

[49] My office reviewed the pages set out in paragraph [43]. Based on that review, my office determined that the body of the email timestamped 11:24 a.m. on page 99 contains a consultation. The Deputy Director sought a recommendation from an employee on how to draft correspondence. I will determine if the body of this email meets the second part of the two-part test.

[50] Before I do, I note that there are no other instances in which the contents to which Corrections applied subsection 17(1)(b)(i) of FOIP actually qualifies as a consultation or deliberation. In past reports, such as [Review Report 142-2023](#), I have quoted [Order F2013-13](#) by the Office of the Information and Privacy Commissioner of Alberta (AB IPC) that explains subsection 24(1)(b) of Alberta's *Freedom of Information and Protection of Privacy Act* (AB FOIP) and what "consultations" and "deliberations" are. Subsection 24(1)(b) of AB FOIP is similar to subsection 17(1)(b) of FOIP:

[para 146] I agree with the interpretation Commissioner Clark assigned to the terms "consultation" and "deliberation" generally. However, as I stated in Order F2012-10, section 24(1)(b) differs from the section 24(1)(a) in that section 24(1)(a) is intended to protect communications developed for a public body by an advisor, while **section 24(1)(b) protects communications involving decision makers. That this is so is supported by the use of the word deliberation: only a person charged with making a decision can be said to deliberate that decision.** Moreover, **"consultation" typically refers to the act of seeking advice regarding an action one is considering taking, but not to giving advice in relation to it.** Information that is the subject of section 24(1)(a) may be voluntarily or spontaneously provided to a decision maker for the decision maker's use because it is the responsibility of an employee to provide information of this kind; however, such information cannot be described as a "consultation" or a "deliberation". Put simply, section 24(1)(a) is concerned with the situation where advice is given, **section 24(1)(b) is concerned with the situation where advice is sought or considered.**

[Emphasis added]

[51] Examples of where Corrections applied subsection 17(1)(b)(i) of FOIP but the contents do not qualify as consultations or deliberations are at pages 28 to 32 and pages 74 to 78. These pages involve an email exchange between the Deputy Director and a Return to Work Specialist. The email exchange is about what happened and the process to be undertaken

to deal with a particular situation. There are no consultations or deliberations. For example, the Deputy Director did not seek advice from the Return to Work Specialist, and the Return to Work Specialist did not provide advice for the Deputy Director to deliberate and to make a decision.

[52] With the exception of the email timestamped 11:24 a.m. on page 99, I find that Corrections did not properly apply subsection 17(1)(b)(i) of FOIP. I will now consider if the email timestamped 11:24 a.m. on page 99 meets the second part of the two-part test.

2. Do the consultations or deliberations involve officers or employees of a government institution?

[53] Page 138 of the *Guide to FOIP*, Ch. 4, provides the following definitions:

- “Involving” means including.
- “Officers or employees of a government institution”: “Employee of a government institution” means an individual employed by a government institution and includes an individual retained under a contract to perform services for the government institution.

[54] Based on a review of the email timestamped 11:24 a.m. on page 99, the consultation involves employees of Corrections. Therefore, the second part of the two part test is met. I find that Corrections properly applied subsection 17(1)(b) of FOIP to the body of the email timestamped 11:24 a.m. on page 99.

5. Did Corrections properly apply subsection 29(1) of FOIP?

[55] Corrections applied subsection 29(1) of FOIP to portions of pages 1, 2, 4, 6, 12, 16, 20, 21, 35 and 92.

[56] Subsection 29(1) of FOIP provides:

29(1) No government institution shall disclose personal information in its possession or under its control without the consent, given in the prescribed manner, of the

individual to whom the information relates except in accordance with this section or section 30.

[57] Section 29 of FOIP prohibits the disclosure of personal information unless the individual about whom the information pertains consents to its disclosure, or if the disclosure without consent is authorized by one of the enumerated subsections of 29(2) or section 30 of FOIP (*Guide to FOIP*, Chapter 6, “Protection of Privacy”, updated January 18, 2023 [*Guide to FOIP*, Ch. 6], p. 183).

[58] In order to withhold information pursuant to subsection 29(1) of FOIP, the information must qualify as “personal information” as defined by subsection 24(1) of FOIP. To qualify as personal information as defined by subsection 24(1) of FOIP, the information must: 1) be about an identifiable individual; and 2) be personal in nature. Information is about an “identifiable individual” if the individual can be identified from the information (e.g., their name is provided) or if the information, when combined with information otherwise available, could reasonably allow the individual to be identified. To be “personal in nature” means the information provides something identifiable about the individual (*Guide to FOIP*, Ch. 6, pp. 32-33).

[59] In this matter, subsections 24(1)(b), (d) and (k) are relevant; these subsections define “personal information” as follows:

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;

...

(d) any identifying number, symbol or other particular assigned to the individual, other than the individual’s health services number as defined in *The Health Information Protection Act*;

...

(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.

[60] Pages 35 to 37 of the *Guide to FOIP*, Ch. 6, provides examples of information that my office has found not to qualify as “personal information”, including the following:

- Work product is information generated by or otherwise associated with an individual in the normal course of performing his or her professional or employment responsibilities, whether in a public or private setting. This is not considered personal information.
- Business card information is the type of information found on a business card (name, job title, work address, work telephone numbers and work email address). This type of information is generally not personal in nature and therefore would not be considered personal information. This is considered “business contact information” and not personal information.

[61] In its submission, Corrections said:

The Ministry is aware of IPC’s position that business card information is not personal in nature and therefore, is not personal information. However, in view of the clear words in section 24(e) [sic] of FOIP that business address and business telephone number are personal information of an individual and the name of an individual where it appears with other personal information that relates to the individual is personal information (e.g. an individual’s name where it appears with their business address or place of employment), the Ministry feels compelled to redact the names of individuals who are not officers or employees of a government institution, in order to protect their personal information.

Subsection 29(1) has been applied to portions of the records identified below.

Pages 1 and 2 contain the name, date of birth, and identifying number of an individual that is not a government employee as well as information about that individual in relation to their behaviours and actions during an incident.

Pages 4 and 6 contain information about injuries sustained by individuals involved in an incident and their medical status. While the individuals discussed are employees of a government institution, this information does not fall within the scope of subsection 24(2), which sets out information that is not personal information.

Page 12 contains the name of an individual from another organization that is not a government institution.

Page 16 contains the names of individuals that applied for the Admitting Training. If released, these names would reveal personal information about those individuals: the fact that they applied for the Admitting Training.

Pages 20 and 21 contain the name, email address, and telephone number of an individual from another organization that is not a government institution.

Page 35 contains the information and names of individual where it appears with other personal information and the disclosure of the names would reveal personal information about the individuals.

Page 92 contains the name and email address of an individual from another organization that is not a government institution.

[62] Based on a review of the pages to which Corrections applied subsection 29(1) of FOIP, I find that personal information appears in the following pages:

- Page 1 – the name of the inmate qualifies as personal information as defined by subsection 24(1)(k)(ii) of FOIP.
- Page 2 – the name of the inmate, the number associated with the inmate and the inmate’s date of birth qualifies as personal information as defined by subsection 24(1)(d) and 24(1)(k)(i) of FOIP.
- Page 6 – the names of the corrections officers that are not the Applicant in the email timestamped 9:13:53 p.m. qualify as personal information as defined by subsection 24(1)(k)(i) of FOIP. After their names are listed, the content contains a detail of the corrections officers (including the Applicant) in their personal, not professional, capacities.
- Page 12 – the names of individuals that appear in the subject lines qualify as personal information as defined by subsection 24(1)(k)(ii) of FOIP.
- Page 16 – the names of individuals who are not the Applicant qualify as personal information as defined by subsection 24(1)(k)(ii) of FOIP.
- Page 92 – the name and email address that appears in the “From:” field qualifies as personal information as defined by subsection 24(1)(k)(i) of FOIP.

[63] As such, I find that subsection 29(1) of FOIP applies to the portions described above on pages 1, 2, 6, 12, 16 and 92. My findings and recommendations are set out in the Appendix.

[64] However, I do not find that personal information appears on the following pages:

- Pages 20 to 21 – The name and business contact information of an employee of CBI Health Group, which is an organization that provides rehabilitation services. Business contact information and does not qualify as personal information.
- Page 35 – This page contains names of employees in their work capacity and a description of what occurred in the course of their employment. Such information does not qualify as personal information.

[65] Therefore, I find that Corrections did not properly apply subsection 29(1) of FOIP to pages 20, 21 and 35. My findings and recommendations are set out in the Appendix.

6. Did Corrections properly apply subsection 27(1) of HIPA?

[66] Corrections applied subsection 27(1) of HIPA to pages 1, 4 and 6. I have already found that subsection 29(1) of FOIP applies to page 6 so I will not consider whether subsection 27(1) of HIPA applies to page 6.

[67] 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.

[68] In this matter, subsections 2(1)(m)(i) and (ii) of HIPA are relevant. Earlier in this Report, I quoted subsections 2(1)(m)(i) and (ii) of HIPA.

[69] In its submission, Corrections said:

Pages 1, 4 and 6 contain the names and injuries sustained by individuals during a major disturbance at Regina Correctional Centre. These pages also contain information about the medical services provided and the status of the injured individuals. This information is personal health information because it is information with respect to the physical health of the individuals, information about health services provided, and information collected in the course of the provision of health services.

[70] Based on a review, page 1 contains the description of injuries sustained by the correction officers and the treatment they received. Page 4 contains a description of the injury to the

correction officer who is not the applicant in the email timestamped 5:15:00 p.m. Such information qualifies as personal health information as defined by subsection 2(1)(m)(i) and (ii) of HIPA. I find that Corrections properly applied subsection 27(1) of HIPA to portions of pages 1 and 4. My findings and recommendations are set out in the Appendix.

7. Is there information that is non-responsive to the Applicant's access request?

[71] Corrections redacted portions of pages 11 and 12 and indicated they were non-responsive to the Applicant's access request.

[72] When a government institution receives an access to information request, it must determine what information is responsive to the access request. "Responsive" means relevant. The term describes anything that is reasonably related to the request. It follows that any information or records that do not reasonably related to an applicant's request will be considered "not responsive" (*Guide to FOIP*, Chapter 3, "Access to Records", updated May 5, 2023, [*Guide to FOIP*, Ch. 3], at p. 26).

[73] In its submission, Corrections said:

Part of the information on pages 11 and 12 is outside the scope of the access request. The Applicant specifically requested records that were "all records from the Regina Correctional Centre, apart from emails that I have sent or received, not only from Directors. All records from Directors/executive branch of Custody March 9, 2022 to Present". The non-responsive portion of the record was the Microsoft Viva automated weekly summary to the Deputy Director of Operations. The information redacted contains information of a different subject matter than what was request and therefore, is clearly separate and distinct from the access request. It is submitted that this information is non-responsive to the access request and therefore exempt from disclosure on that basis.

[74] Based on a review of pages 11 and 12, I find that the redacted portions are non-responsive to the Applicant's request. The redacted portions on these two pages contain information that is clearly not about the Applicant. The Applicant sought records related to themselves. The redacted information summarizes emails that appeared in the Deputy Director's inbox that did not relate to the Applicant.

[75] In 2017, I published a blog named, “[What About the Non-Responsive Record?](#)”. In that blog, I said:

a record may have responsive and non-responsive information in it. The public body is obliged to provide the applicant with the responsive information (subject to exemptions), and it has to decide what to do with the non-responsive information in that same record. Again, **I suggest best practice is to provide the non-responsive information to the applicant (subject to exemptions). Alternatively, the public body might choose to sever the non-responsive information, but that strikes me as a waste of time.** Unnecessary severing causes applicants to be suspicious that something is being hidden. An applicant could submit a second access request for the severed non-responsive portions and the public body would have to provide it (subject to exemptions). So, this blog is written just to encourage public bodies to release non-responsive portions of records where an exemption does not apply.

[Emphasis added]

[76] I note that the initials of one individual and the name of another individual appear in two subject lines on page 12. I recommend that Corrections redact the initials and the name of third party individuals on page 12 pursuant to subsection 29(1) of FOIP and release the remainder of the information it marked as “non-responsive” on pages 11 and 12.

8. Did Corrections properly redact letterheads?

[77] Pages 42 and 43 contain letters with the letterhead of an organization. Page 60 contains a letter with the letterhead of another organization. However, in the copy of the redacted record, it appears that Corrections redacted the letterheads on these pages. Corrections did not identify a reason for doing so.

[78] On the face of these pages, I do not find that any mandatory exemptions apply to these letterheads. Therefore, I recommend that Corrections release the letterheads on pages 42, 43 and 60.

IV FINDINGS

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

- [80] I find that HIPA is also engaged.
- [81] I find that Corrections did not properly apply subsection 15(1)(m) of FOIP to pages 1, 4, 7 and 35.
- [82] I find that Corrections properly applied subsection 17(1)(a) of FOIP to the body of the email timestamped 11:37:21 a.m. on page 99 of the records at issue.
- [83] With the exception of email timestamped 11:37:21 a.m. on page 99, I find that Corrections did not properly apply subsection 17(1)(a) of FOIP to the records at issue.
- [84] I find that Corrections properly applied subsection 17(1)(b) of FOIP to the body of the email timestamped 11:24 a.m. on page 99.
- [85] With the exception of the email timestamped 11:24 a.m. on page 99, I find that Corrections did not properly apply subsection 17(1)(b)(i) of FOIP.
- [86] I find that subsection 29(1) of FOIP applies to portions of pages 1, 2, 6, 12, 16 and 92.
- [87] I find that Corrections did not properly apply subsection 29(1) of FOIP to pages 20, 21 and 35.
- [88] I find that Corrections properly applied subsection 27(1) of HIPA applies to portions of pages 1 and 4.
- [89] I do not find that any mandatory exemptions apply to the letterheads on pages 42, 43, and 60.

V RECOMMENDATIONS

[90] I recommend that Corrections comply with the recommendations to release or withhold records as set out in the Appendix within 30 days of issuance of this Report.

[91] I recommend that Corrections redact the initials and the name of third party individuals on page 12 pursuant to subsection 29(1) of FOIP but then release the remainder of the information it marked as “non-responsive” on pages 11 and 12.

[92] I recommend that Corrections release the letterheads on pages 42, 43 and 60.

Dated at Regina, in the Province of Saskatchewan, this 12th day of July, 2024.

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

Appendix

Page Number	Exemptions applied by Corrections	IPC Findings	IPC Recommendations
1	29(1), 15(1)(m) of FOIP; 27(1) of HIPA	<p>15(1)(m) of FOIP does not apply.</p> <p>29(1) of FOIP applies to the name of the inmate that appears throughout the in the incident description but does not apply to the actions described in the incident.</p> <p>27(1) of HIPA applies to the description of the injuries of the corrections officers and treatment received by the corrections officers.</p>	<p>Continue to withhold the name of the inmate pursuant to subsection 29(1) of FOIP.</p> <p>Continue to withhold the description of the injuries of the corrections officers and treatment received by the corrections officers pursuant to subsection 27(1) of HIPA.</p> <p>Release the remainder of the page.</p>
2	29(1) of FOIP	29(1) of FOIP applies.	Continue to withhold pursuant to 29(1) of FOIP.
3	Released		
4	29(1), 17(1)(a), 17(1)(b), 15(1)(m) of FOIP; 27(1) of HIPA	<p>29(1) of FOIP applies to the name of the corrections officer that is not the Applicant in the email timestamped 5:15:00PM.</p> <p>27(1) of HIPA applies to the description of injury to the corrections officer that is not the Applicant in the email timestamped 5:15:00PM.</p> <p>17(1)(a) and 17(1)(b) of FOIP do not apply.</p> <p>15(1)(m) of FOIP does not apply.</p>	<p>Apply 29(1) of FOIP to name of correction of officer that is not the Applicant in the email timestamped 5:15:00PM.</p> <p>Apply 27(1) of HIPA to the description of the injury to the correction officer that is not the Applicant in the email timestamped 5:15:00PM.</p> <p>Release remainder.</p>
5	Released		
6	29(1), 17(1)(a), 17(1)(b) of FOIP; 27(1) of HIPA	29(1) of FOIP applies to the names of the correction officers that are not the	Continue to withhold the names of the correction officers who are not the

		<p>Applicant in the email timestamped 9:13:53PM.</p> <p>Once the names have been removed, the information has been de-identified so the remaining information can be released.</p> <p>17(1)(a) and (b) of FOIP do not apply.</p>	<p>Applicant pursuant to 29(1) of FOIP.</p> <p>Release remainder of the page.</p>
7	17(1)(a), 17(1)(b), 15(1)(m) of FOIP	<p>15(1)(m) of FOIP does not apply.</p> <p>17(1)(a) and (b) do not apply.</p>	Release.
8	Released		
9	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
10	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
11	Non-responsive	Contents is non-responsive.	Release.
12	29(1) of FOIP; Non-responsive	<p>29(1) applies to the initials and name of third party individuals.</p> <p>Contents is non-responsive.</p>	<p>Continue to withhold the initials and name of third party individuals that appear on subject lines pursuant to subsection 29(1) of FOIP.</p> <p>Release remainder of page.</p>
13 to 14	Released		
15	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
16	29(1) of FOIP	29(1) of FOIP applies.	Release.
17	Released		
18	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
19	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
20	29(1), 17(1)(a), 17(1)(b) of FOIP	29(1), 17(1)(a), 17(1)(b) of FOIP do not apply.	Release.
21	29(1) of FOIP	29(1) of FOIP does not apply.	Release.
22	Released		

23	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
24 to 27	Released		
28	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
29	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
30	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
31	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
32	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
33	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
34	Released		
35	29(1), 17(1)(a), 17(1)(b), 15(1)(m) of FOIP	29(1), 17(1)(a), 17(1)(b), 15(1)(m) of FOIP do not apply.	Release.
36	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
37 to 38	Released		
39	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
40	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
41	Released		
42	Letterhead was removed but no exemption was cited.		Release.
43	Letterhead was removed but no exemption was cited.		Release.
44	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
45	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
46	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
47 to 49	Released		
50	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
51	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
52	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.

53 to 56	Released		
57	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
58	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
59	Released		
60	Letterhead was removed but no exemption was cited.		Release.
61 to 65	Released		
66	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
67	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
68	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
69	Released		
70	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
71	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
72	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
73	Released		
74	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
75	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
76	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
77	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
78	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
79	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
80	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
81 to 88	Released		
89	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
90	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
91	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.

92	29(1) of FOIP	29(1) of FOIP applies to the content in the "From:" field	Continue to withhold the contents of the "From:" field pursuant to 29(1) of FOIP. Release remainder.
93	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
94	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
95	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
96	Released		
97	17(1)(a), 17(1)(b) of FOIP	17(1)(a) and (b) do not apply.	Release.
98	Released		
99	17(1)(a), 17(1)(b) of FOIP	17(1)(a) of FOIP applies to the email timestamped 11:37:21 a.m. 17(1)(b) of FOIP applies to the email timestamped 11:24 a.m.	Continue to withhold the email timestamped 11:37:21 a.m. pursuant to 17(1)(a) of FOIP. Continue to withhold the email timestamped 11:24 a.m. pursuant to 17(1)(b) of FOIP.
100 to 103	Released		