



Office of the  
Saskatchewan Information  
and Privacy Commissioner

## **REVIEW REPORT 214-2015 PART I**

**Regina Qu'Appelle Regional Health Authority**

**July 27, 2016**

**Summary:**

The Applicant submitted an access to information request to Regina Qu'Appelle Regional Health Authority (RQRHA) for records relating to the death of her deceased family member. RQRHA provided the Applicant with some responsive records and advised it was withholding other records under subsections 16(3) and subsections 21 (a), (b) and (c) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP), subsection 38(1)(d)(ii) of *The Health Information Protection Act* (HIPA), as well as the application of section 10 of *The Evidence Act*, section 58 of *The Regional Health Services Act* (RHSA) and *The Critical Incident Regulations*. The Applicant requested a review of the exemptions raised by RQRHA as well as search efforts. RQRHA provided my office with records located at their office, but refused to provide my office with some records held at their lawyer's office claiming solicitor-client privilege. The Commissioner found that RQRHA did perform an adequate search for records, including those held at their lawyer's office. The Commissioner also found that RQRHA had appropriately withheld some of the records. The Commissioner also found that the exemptions claimed only applied to portions of the records. At a later date, the Commissioner will release Part II of this Report dealing with the records at RQRHA's lawyer's office where RQRHA is claiming solicitor-client privilege.

### **I BACKGROUND**

- [1] On April 27, 2015, the Regina Qu'Appelle Regional Health Authority (RQRHA) received an access to information request dated April 23, 2015 for:

All personal health information of [name of applicant's family member] within their possession, custody, control or with respect to which they have access. In particular, without limiting the generality of the foregoing... witness statements, investigator notes, letters, memoranda, correspondence, opinions, reports, notices, critical incident notice, critical incident reports, etc. that have any direct or indirect [sic] relation to the death of [applicant's family member] on or about May 10, 2009.

- [2] On May 5, 2015, RQRHA sent the Applicant a letter requesting a copy of any documentation showing the Applicant had consent or authority to have this information released to them.
- [3] On May 8, 2015, the lawyer representing the Applicant provided RQRHA with a copy of an *Appointment of Administrator* document appointing the Applicant to administer the estate for the deceased family member.
- [4] On May 13, 2015, RQRHA provided the Applicant with an interim notice providing the Applicant with a fee estimate of \$882.15 for the requested records and raising exemptions that could potentially apply to the requested records. The letter to the Applicant stated:

You are being provided with a cost estimate as prescribed by section 9 of the Act and subsection 5(2) of *The Local Authority Freedom of Information and Protection of Privacy Regulations*... RQHR has created an Index of Records to assist you in a preliminary review and for you to garner a fulsome understanding of the extent of the solicitor-client privilege afforded these records and the application of The Regional Health Services Act, section 58, and the complementary Critical Incident Regulations in conjunction with section 10 of The Evidence Act and The Local Authority Freedom of Information and Protection of Privacy Act (LA FOIP) subsection 16(3) and sub clause 38(1)(d)(ii) of HIPA to determine what may be released...

If after reviewing the index of records you decide to clarify your request, please advise what records you would like RQHR to review for release against the relevant responsive legislation. If you chose [sic] to go forward with your request in its entirety to review all records then please provide a cheque for the deposit of \$441.08..

- [5] On June 10, 2015, the Applicant's lawyer responded to the RQRHA stating as follows:

...My client maintains the full scope of its application and its right to request the balance of the documents identified in your May 13, 2015, letter and such other records as may be discovered, however at the present moment my client wishes to proceed with respect to documents A1 through A37 (89 pages), B1 through B12 with

the exception of B7 and B11 (14 pages), C1 through C39 (111 pages), for a total of 214 pages.

The calculation contained in your May 13, 2015, letter was 735 pages totaling \$882.15 or \$1.20 per page. Therefore, the maximum fee for the 214 pages requested at this time at the same rate is \$256.80. Please find enclosed cheque for this full amount...

- [6] On July 22, 2015, RQRHA sent a letter to the Applicant releasing portions of the requested records and responded to the Applicant's request as follows:

On June 22, 2015, I received your cheque for \$256.80 and listing of identified records to be covered by the monies.

...

As noted a majority of the records requested relate the [sic] Critical Incident or its investigation which is protection under The Regional Health Services Act, section 58, and the complementary Critical Incident Regulations in conjunction with section 10 of The Evidence Act and The Local Authority Freedom of Information and Protection of Privacy Act (LA FOIP) subsection 16(3) and sub clause 38(1)(d)(ii) of The Health Information Protection Act.

Further application of section 21 is noted through the file covering Solicitor-Client Privilege as applicable.

...

- [7] On November 13, 2015, the Applicant's lawyer submitted a request for review to my office on behalf of the Applicant. My office clarified with the Applicant's lawyer that the review would cover the records at issue in the narrowed scope following RQRHA's fee estimate and index of records as well as search efforts of RQRHA.

- [8] On November 19, 2015, my office provided notification to both parties of the review. My office requested RQRHA submit a copy of the responsive records, the index of records and a submission explaining how portions of the records were exempt. The Applicant was also invited to provide a submission for my office's consideration.

- [9] Both RQRHA and the Applicant provided submissions for consideration in this review. RQRHA also identified additional records responsive to the Applicant's request and released redacted copies of these records to the Applicant on February 3, 2016.

## II      RECORDS AT ISSUE

- [10] This is Part I of a Report which deals with the portions of the records not held at the RQRHA's lawyer's office for which RQRHA is claiming solicitor-client privilege. This portion of records will be dealt with in Part II of this Report.
  
- [11] RQRHA advised the Applicant that there were 735 pages responsive to the initial request. The Applicant chose to narrow the scope of the request for records A1 through A37 (89 pages), B1 through B12 with the exception of B7 and B11 (14 pages), C1 through C39 (111 pages), for a total of 214 pages. Further, RQRHA identified additional records that totaled 15 pages and are labeled as records AM001-AM007. Part I of this Report will only deal with those records referred to in paragraph [10] above which contained redactions. Any records that RQRHA did not identify redactions will not need to be considered in my review.

## III     DISCUSSION OF THE ISSUES

### 1.     Did RQRHA perform a reasonable search for responsive records?

- [12] When reviewing search efforts by a public body, my office must determine whether a reasonable search has been conducted.
  
- [13] A reasonable search is one in which an employee, experienced in the subject matter, expends a reasonable effort to locate records which are reasonably related to the request.
  
- [14] The threshold that must be met is one of “reasonableness.” In other words, it is not a standard of perfection, but rather what a fair and rational person would expect to be done or consider acceptable. LA FOIP and HIPA do not require a public body to prove with absolute certainty that records do not exist.
  
- [15] In RQRHA's submission to my office it provided the following regarding its search efforts:

...Director of Patient [Safety], is the current lead on this file and was asked to complete the records search for the request on April 27, 2015. The Director completed this search following her return to office and the Index of Records was collated and compiled on May 11, 2015. For the search the Director went through her electronic storage systems running “[first and last name of applicant’s deceased family member]” as well as pulling the paper files from the file cabinet. The Director also contacted the initial file lead, now employed in another area of the RQHR, to determine if any files were stored with her, and she stated that she had no files and all electronic records and paper were stored in the appropriate Critical Incident files.

Upon receipt of the Request for Review notification, to provide a fulsome response to the concerns that the Applicant felt there were more responsive records in 2009-2011 than RQHR had initially provided, the Director ran a second Responsive Records Search for “[first and last name of deceased individual]” and “[last name of deceased individual]” on her computer in the Risk Management folder, Data folder and [name of Director] folder as well as through her emails and calendars. The files were printed where required and collated and through that process the Director identified 7 additional records...

RQHR does acknowledge that there may be records in its control with [name of legal counsel], its legal representative, relate to [full name of deceased individual] that are not in this file however, any records held there are not in the custody of RQHR and would relate directly to a civil liability case currently before the courts and there are active litigation processes and procedures the Applicant is able to obtain through Discovery according to the Rules of the Court. The Applicant did not specify any legal documents relating to [full name of deceased individual] therefore the search was not extended to the Law Offices of [name of legal counsel].

- [16] The Applicant’s lawyer submitted the following regarding RQRHA’s search for responsive records:

The RQHR indicates that it made no attempt to search the files contained at its lawyer’s office. The location of the records is irrelevant to the RQHR’s HIPA obligations. These files may contain highly relevant information which does not appear to be disclosed on the document index, including but not limited to the requested witness statements that followed immediately subsequent to the medication error and should be subject to your review. The RQHR fails to indicate any search that it conducted of the vitals monitoring equipment or the inotope machine, despite this information being at the center of the medication error.

- [17] RQRHA asked that my office forward the Affidavit of Documents to the Applicant to determine which records the Applicant was interested in pursuing. The document was created in 2012 and therefore did not include any records created or obtained by RQRHA’s lawyer after that date.

- [18] After receiving a fee estimate from RQRHA and reviewing an index of records, the Applicant chose to only request records from 2009, 2010 and 2011. My office followed up with the Applicant to determine if it was only records up to this point that he was seeking from RQRHA lawyers' office. The Applicant's lawyer responded with the following:

The Statement of Documents of the RQHR is irrelevant to the request for personal health information by my client to the RQHR and my client's request for review submitted to your office. Documents irrelevant to the Court action or otherwise not disclosable will not be listed on the Statement as to Documents. Furthermore, the RQHR's Statement as to Documents is outdated, having been executed in July 6, 2012, as further personal health information has been discovered by the RQHR subsequent to that point in time as confirmed by partial submission of the same to your office and forwarding to my office. My client is concerned that additional personal health information exists that has not been disclosed. I also note that the location of the personal health information is irrelevant, whether at their lawyer's office or at the RQHR...

- [19] Based on this response, it was clear that the Applicant was not only interested in records from 2009, 2010 and 2011, but any responsive records up to the point of the access request in 2015. My office then emailed RQRHA on April 13, 2016 requesting the following:

I followed up with the Applicant to determine if the [document] accurately captured the records the Applicant was requesting. As the document was created in 2012, the Applicant does not feel that RQHR has completed an appropriate search for responsive records at the law office for RQHR. Based on a review of the Applicant's initial [access to information] request to RQHR, it does not limit the records of interest to a specific time period. I am aware that after the Applicant received the index of records and fee estimate they did choose to only pursue records from 2009, 2010 and 2011. However, as a search of the records at the law firm was not completed at the time of the request, the index did not include responsive records from the law office and therefore the Applicant has not yet been given the opportunity to determine if there were additional records that they were interested in accessing. As such, I am requesting that RQHR complete a search for responsive records under their control that are at the law office by April 21, 2016... As well, the Applicant has inquired if RQHR's search for responsive records included "machine data from the 'inotrope machine'...and additionally vital monitoring data (ECG, heart rate, blood pressure or similar such recordings in physical or electronic forma, etc.) on or about May 10, 2009 and for the week prior." Can you please advise if these machines have the ability to store or retrieve this type of information. If it is able to, please advise of RQHR's search efforts to retrieve this information. If it does not have these

capabilities, please advise of how RQHR reached the conclusion that these [sic] PHI cannot be stored or retrieved from these machines.

- [20] After receiving a copy of my office's Draft Report regarding this matter, RQRHA provided an additional Affidavit of Documents including documents held at their lawyer's office. This supplementary Affidavit of Documents included documents responsive to the request up to May 2016.
- [21] As well, RQRHA provided my office with further information regarding the search for records:

#### **The Search of Legal Counsel Offices**

The RQRHA has requested that [our lawyer] provide a letter of response to you related to the information contained in his office related to this legal case. The letter is attached... In addition to this, based upon the [IPC's] concern related to the Statement of Documents not being current we have taken steps to have our legal counsel complete a supplementary affidavit of documents and a second supplementary affidavit of documents, both of which were sent to [the Applicant's lawyer]...

#### **Letter from RQRHA's Lawyer regarding Search of Legal Counsel Office**

The protocol for preparing [the Affidavit of Documents] is to go through the file, in its entirety and to make a list separating producible from privileged documents. The lists are exhaustive of the file contents for the case in issue... In the Affidavits of Documents that were sworn by Dona Braun and served upon the Plaintiff's solicitor, Ms. Braun swears, under oath that... there [sic] not any other relevant material or documents in her possession, custody or control...

#### **Search of medical machines for responsive records as identified by the Applicant**

On December 6, 2012 the Regina Qu'Appelle Health region's legal counsel responded to an inquiry related to download information in respect of inotrope pumps which [the Applicant's lawyer] was informed that there is no information available. On November 26, 2013 the Regina Qu'Appelle Health Region's legal counsel responded to an inquiry from [the Applicant's lawyer] regarding the equipment download data and advised that no information is available. [The Applicant's lawyer] again inquired about the issue and on February 25, 2014 the region's legal counsel sent a letter to [the Applicant's lawyer] advising him the region reviewed its documentation and electronic information in respect of this matter and confirms that there is no other ECG documentation or stored electronic information in SICU or the ECG, other than that has already been produced in this proceeding...

[22] Based on the information provided to my office by RQRHA outlining their search efforts, I find that they have conducted a reasonable search for records.

**2. Does subsection 38(1)(d)(ii) of HIPA apply to the responsive records?**

[23] In RQRHA's response to the Applicant, it relied on subsection 38(1)(d)(ii) of HIPA which provides as follows:

**38(1)** Subject to subsection (2), a trustee may refuse to grant an applicant access to his or her personal health information if:

...

(d) subject to subsection (3), the information was collected and is used solely:

...

(ii) for the purpose of review by a standards or quality care committee established to study or evaluate health services practice in a health services facility or health services agency, including a committee as defined in section 10 of *The Evidence Act*;

[24] Section 10 of *The Evidence Act* provides:

**10** In this section:

“committee” means a committee designated as a quality improvement committee by a health services agency to carry out a quality improvement activity the purpose of which is to examine and evaluate the provision of health services for the purpose of:

(a) educating persons who provide health services; or

(b) improving the care, practice or services provided to patients by the health services agency;

[25] RQRHA provided the following in support of this exemption:

The causes of many critical incidents are complex. In 2002, Saskatchewan became the first province to enact legislation requiring mandatory reporting of adverse events to the provincial Department of Health. Then in September 2004, the Government of Saskatchewan passed legislation requiring the reporting and investigation of critical incidents in healthcare.

It is acknowledged that the overarching operational reporting of critical incidents or adverse events to hospital quality assurance or peer review committees is generally part of such broader initiative aimed at identifying and addressing systemic problems and improving safety. With the ultimate goal of quality assurance activities it is key that the reporting and subsequent investigation of such information not be used or disclosed outside the quality assurance process. The responsive legislation intended to produce a fulsome root cause analysis; not provide the basis for a blame and shame.

The RQHR follows a Work Standard for Critical Incidents as well as policies and procedures in place to maintain Confidentiality at all times and extends that to individuals employed by RQHR outside the Standards of Care Committee. When the RQHR looks to determine what is available for review and what is unable to release these work standards are what are followed. Those Work Standards and information are attached.

LA FOIP Subsection 16(3) reiterates the confidentiality of The Evidence Act... HIPA sub clause 38(1)(d)(ii) echoes the same needs for confidentiality...

The RQHR reads these legislative requirements as a collaborative inter-locking framework for the confidentiality of critical incidents when it is collecting statements, and interviewing witnesses, therefore when RQHR was reviewing its response to the Applicant and again in its review position to the IPC we see the interlocking response to be valid and the redactions required to maintain that standard.

The RQHR was careful to provide as much information as it could release without bruising the legislative parameters provided. The RQHR released factual information that may be contained in the report that was located elsewhere and information that was consistent with the release directed by Judge Zarenzny in Gordon v Regina Qu'Appelle Regional Health Authority, 2015 SKQB 147 for the witness names as employees of RQHR.

- [26] RQRHA has explained in their submission that the purpose of collecting this information was for the purpose of investigating the critical incident. The individuals responsible to conduct this investigation are considered a committee by RQRHA to evaluate health services in order to improve patient care. It is my view that this would qualify as a committee. Based on a review of the records, I have found that the exemption applies to the records outlined in Table A at the end of my Report and should continue to be withheld.
  
- [27] RQRHA should consider releasing the records outlined in Table B at the end of my Report.

**3. Does section 21(a) of LA FOIP apply to the responsive records?**

[28] Subsection 21(a) of LA FOIP states as follows:

**21** A head may refuse to give access to a record that:

(a) contains information that is subject to solicitor-client privilege;

[29] Throughout the records, RQRHA has applied subsections 21(a), (b) and (c) to different portions of the record. RQRHA provided the following in its submission regarding the application of these exemptions:

...as for information not released pursuant to section 21, Solicitor-Client Privilege, in the initial response RQHR reviewed the IPC's most recent Review Report 035-2015 and the IPC Guide to Exemptions for FOIP and LA FOIP at section 8, pages 45-48, and found firm direction on the application of the section 21 and the difference between the subsections. This Critical Incident is before the courts with the Applicant or the Applicant's father as plaintiff counsel therefore there are a large number of representative records that are covered by Solicitor-Client Privilege owing to discussions surrounding legal advice, services and correspondence with [name of solicitor], RQHR's legal representative or a member of his legal team. RQHR was cognizant to include as much information as possible following the Guidelines of 21(a) through (c) as they applied.

As RQHR reassessed its redaction against each subsection it worked to determine if the records met the criteria as initially used to one of the three subsections and it is the understanding of RQHR that when there was legal advice provided, or when there is a legal service being solicited by a representative of RQHR and the legal team responded to or accepted the direction. Further, when the RQHR appointed solicitor creates or receives correspondence requesting further information and that information is then located and provided or when the solicitor requests assistance of an expert in a desired field the purpose of such correspondence is to provide a legal service to RQHR in case of litigation.

When reviewing the initial release, RQHR looked first at its documentation with [legal counsel] against 21(a)...

When reviewing other responsive records that did not meet the criteria for 21(a) the records were held against 21(b), RQHR understands those records to mean records prepared by or for legal counsel for a local authority in the course of providing legal advice and services...

The last review was based on communications between our legal counsel and persons external to RQHR and the civil file before the courts. We understood that to encompass discussions with persons in RQHR not directly in the evidentiary process

or those directly involved in the civil litigation, and individuals classified as witnesses, potential witnesses, experts, and procedural questions of the employees...

[30] For subsection 21(a) of LA FOIP to apply to the record, it must meet a three part test:

1. The record must be a communication between solicitor and client.
2. The communication must entail the seeking or giving of legal advice or legal assistance.
3. The communication must be intended to be confidential.

[31] In RQRHA's submission it states that an employee of RQRHA was an "agent" of its solicitor and any work done, correspondence or records collected or prepared by this "agent" were caught by solicitor-client and/or litigation privilege. I understand if a lawyer in preparing for a case requests an outside body to conduct an investigation or research, such information generated might be covered by litigation privilege. However, neither research by my office nor RQRHA's submission has a case come to my attention where an employee of a client becomes an agent of its lawyer and thus any records obtained or produced are protected by solicitor-client privilege.

[32] Based on a review of the records, it appears subsection 21(a) of LA FOIP would apply to the records outlined in Table C at the end of my Report and should continue to be withheld.

[33] Based on a review of the records it does not appear subsection 21(a) of LA FOIP would apply to the records outlined in Table D at the end of my Report, and RQRHA should consider releasing these records.

#### **4. Does subsection 21(b) of LA FOIP apply to the responsive records?**

[34] Subsection 21(b) of LA FOIP states as follows:

**21 A head may refuse to give access to a record that:**

...

(b) was prepared by or for legal counsel for the local authority in relation to a matter involving the provision of advice or other services by legal counsel;

[35] The test used to determine if subsection 21(b) of LA FOIP applies is the following:

1. Were the records “prepared by or for” an agent or legal counsel for a public body?
2. Were the records provided in relation to a matter involving the provision of advice or other services by the agent or legal counsel?

[36] Based on a review of the records, it appears subsection 21(b) of LA FOIP applies to the records outlined in Table E at the end of my Report and should continue to be withheld.

## **5. Does subsection 21(c) of LA FOIP apply to the responsive records?**

[37] Subsection 21(c) of LA FOIP states as follows:

**21** A head may refuse to give access to a record that:

...

(c) contains correspondence between legal counsel for the local authority and any other person in relation to a matter involving the provision of advice or other services by legal counsel.

[38] For subsection 21(c) of LA FOIP to apply to the record, the following criteria must be met:

1. The record must be correspondence between the public body’s legal counsel (or an agent of the Attorney General for Saskatchewan) and any other person.
2. The correspondence must be in relation to a matter involving the provision of advice or other services by the agency or legal counsel.

[39] Based on a review of the records, it appears subsection 21(c) of LA FOIP would apply to the records outlined in Table F at the end of my Report and should continue to be withheld.

- [40] Based on a review of the records, it appears subsection 21(c) of LA FOIP would not apply to the records outlined in Table G at the end of my Report, and RQRHA should consider releasing these records.

**6. Does subsection 28(1) of LA FOIP apply to the responsive records?**

- [41] Subsection 28(1) of LA FOIP states as follows:

**28(1)** No local authority 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 29.

- [42] The list of examples of what qualifies as personal information provided at subsection 23(1) of LA FOIP are not meant to be exhaustive. There can be other types of information that would qualify as personal information that are not listed.
- [43] In order to qualify as personal information, the information needs two things:
1. Identifiable individual; and
  2. Personal in nature.
- [44] RQRHA applied subsection 28(1) of LA FOIP to two sentences in email correspondence in record C18. RQRHA should continue to withhold the individual's name in the first sentence as well as the first portion of the second sentence, up to the comma.
- [45] RQRHA did not apply subsection 28(1) of LA FOIP to any other portions of the records. However, as this is a mandatory exemption I do have to consider the application of this exemption to other areas of the record where my office has identified personal information. Based on a review of the records, it appears subsection 28(1) of LA FOIP would also apply to the records outlined in Table H at the end of my Report and should be withheld.

#### **IV FINDINGS**

- [46] I find RQRHA has conducted a reasonable search for responsive records.
- [47] I find RQRHA has appropriately applied subsection 38(1)(d)(ii) of HIPA and subsections 21(a), (c) and 28(1) of LA FOIP to some portions of the responsive records, as outlined in the Tables at the end of my Report.

#### **V RECOMMENDATIONS**

- [48] I recommend RQRHA take no further action regarding search for responsive records.
- [49] I recommend RQRHA release portions of the record where subsection 38(1)(d)(ii) of HIPA and subsections 21(a), (c) and 28(1) of LA FOIP have been found to not apply, as outlined in Tables B, D and G at the end of my Report

Dated at Regina, in the Province of Saskatchewan, this 27<sup>th</sup> day of July, 2016.

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

<b>TABLE A – subsection 38(1)(d)(ii) of HIPA applies - Continue to Withhold</b>	
<b><u>Record</u></b>	<b><u>Description of redacted content</u></b>
A7, Page 2 of A8, Page 1 of A9, Pages 1 – 2 of A10, A16 (critical incident number only), A19 (critical incident number only), A21, Page 1 of A22, Pages 1 – 2 of A26, page 1 of A 27, Page 1 of A28, Page 2 of A28 (critical incident number only), A29 – A31 (critical incident number only), Pages 1 – 2 of A33 (critical incident number only), B4 – B6, B8, B10, C2	Critical Incident Number assigned to this incident during the critical incident investigation
A4 – A6, Page 1 of A8, A12 – A14, A16, A17	Statements from RQRHA employees and notes based on discussions with employees regarding the incident
Page 3 of A8 and Page 2 of A9	Appear to be the same document and outlines what had occurred regarding the incident
A15 (except the name of the RQRHA employee that sent the email)	Email that discusses equipment involved in the incident as well as handwritten notes regarding a conversation related to this email
A11	Names of two medications that may reveal information that RQHR considered significant for follow up in a critical incident.
Pages 2 – 4 of A22, A23 – A25, Pages 3-5 of A26, Page 2 – 4 of A28	Draft Reports regarding the incident
Pages 1 – 2 of A26	Email between RQRHA employees – third sentence reveals information regarding the incident

Pages 1 – 2 of A27	Notes regarding conversations related to recommendations related to the incident
A29 – A31	Email correspondence between RQRHA employees – content contains details regarding recommendations related to the incident
A33	Email between RQRHA employees providing a copy of the Report regarding the incident
A34	RQRHA memorandum and a copy of the report regarding the incident
A36 – A36	Recommendations related to the incident
A37	Email correspondence relating to the critical incident and recommendations resulting from the incident
B8	Notes that contain information related to the incident
B12	Handwritten notes regarding the incident
C17 – C18	Email correspondence between RQRHA employees relating to the critical incident
AM1	Critical Incident Report

**TABLE B – subsection 38(1)(d)(ii) of HIPA does not apply – RQRHA should consider release**

<b><u>Record</u></b>	<b><u>Description of redacted content</u></b>
A15 (name of RQRHA employee that sent email only)	Name of RQRHA employee that sent an email. This information should be released.
A19 (except the name of RQRHA employee involved in incident)	General contact notes to an employee that does not appear to reveal any sensitive information regarding the incident.
Page 1 of A22 (except critical incident number)	Redacted sentence in email. The two sentences appear to be very general in nature and do not appear to reveal any information regarding the incident.
Pages 1 and 2 of A26 (except	The email correspondence appears to contain very

the third sentence of the first email string and the critical incident number)	general information.
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**TABLE C – subsection 21(a) of LA FOIP applies – Continue to Withhold**

<b><u>Record</u></b>	<b><u>Description of redacted content</u></b>
C12	Email between RQRHA and its legal counsel. RQRHA redacted an email subject line and the content of the email. The redacted information appears to contain information regarding a legal opinion.
C16	Email correspondence between RQRHA and legal counsel. RQRHA severed a single sentence from its legal counsel indicating that they wanted to interview an employee.
C37	The redacted email content in this record is an email between RQRHA and its solicitor and appears to contain legal advice.

**TABLE D – subsection 21(a) of LA FOIP does not apply – RQRHA should consider releasing**

<b><u>Record</u></b>	<b><u>Description of redacted content</u></b>
C8 and C9	Apear to be the same piece of correspondence between legal counsel and RQRHA. Only one sentence has been redacted, however it does not appear to contain any legal advice.
C15 and C20	Letters from RQRHA's legal counsel to another agency. It does not appear to contain the giving or seeking of legal advice, therefore would not be correspondence between client and solicitor.
C19 (second redacted sentence only)	Email correspondence from RQRHA to legal counsel. Does not appear to contain any giving or

	seeking of legal advice.
C24 – C25	Email correspondence between RQRHA employees. These records do not appear to be correspondence between client and solicitor. And do not appear to contain any legal advice.
C27	Letter from RQRHA to legal counsel and an attached copy of a floor plan of a unit of a hospital. This information does not appear to contain any giving or seeking of legal advice.
C29 (except the second redacted sentence)	The string of emails contains emails between RQRHA employees and emails between RQRHA and legal counsel. The emails between RQRHA employees do not appear to be between client and solicitor. Nor do any of the emails appear to contain any giving or seeking of legal advice.
C32	Email correspondence between RQRHA and legal counsel. The email correspondence appears to be confirmation of a time for a meeting. There does not appear to be any content that would qualify as legal advice.

**TABLE E – subsection 21(b) of LA FOIP applies – Continue to Withhold**

<b><u>Record</u></b>	<b><u>Description of redacted content</u></b>
C13	Email correspondence regarding the critical incident and contains advice from RQRHA's legal counsel.
C29 (second redacted sentence only)	This redacted sentence of the email correspondence contains information that could reveal information regarding the critical incident.
C33, C35 – C36	Email correspondence contains information that qualifies as legal services

<b>TABLE F – subsection 21(c) of LAFOIP applies – Continue to Withhold</b>	
<b><u>Record</u></b>	<b><u>Description of redacted content</u></b>
C23	Handwritten notes from a meeting between RQRHA and legal counsel regarding the critical incident
C31	Letter to RQRHA from their legal counsel requesting information related to the critical incident.
C38 – C39	Letter from RQRHA to another agency. The information would qualify as a legal service.
B9	Notes of a meeting between RQRHA's legal counsel and RQRHA regarding the critical incident.
C2	This record contains notes from a meeting between the solicitor and RQRHA and email correspondence between the parties regarding the critical incident
C3 – C5	Email correspondence between legal counsel and RQRHA regarding
AM2, AM4 – AM7	Email correspondence between RQRHA's legal counsel and what appears to be an expert they were consulting with regarding the incident. Appears to contain information defined as a legal service.

<b>TABLE G – subsection 21(c) of LA FOIP does not apply – RQRHA should consider releasing</b>	
<b><u>Record</u></b>	<b><u>Description of redacted content</u></b>
C22 (except last redacted sentence of first email string)	Email correspondence between RQRHA and legal counsel. The correspondence appears to be regarding scheduling mediation dates with the Applicant. This information does not qualify as legal advice or legal services.
AM3	Email correspondence between legal counsel and what appears to be an expert they were consulting

	with regarding the incident. The emails simply discuss the preferred delivery method of the report. This would not be considered legal advice or a legal service.
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<b>Table H – subsection 28(1) of LA FOIP applies – Continue to Withhold</b>	
<b><u>Record</u></b>	<b><u>Description of redacted content</u></b>
C17	Name of employee involved in the incident
C19 (first redacted sentence only)	Email correspondence between RQRHA and their solicitor. The first redacted sentence contains personal information of an individual.
C22 (last redacted sentence in first email string)	The redacted sentence contains personal information of an individual.