



Office of the  
Saskatchewan Information  
and Privacy Commissioner

## **REVIEW REPORT 016-2026 (Part I)**

### **Moose Jaw Police Service**

**March 5, 2026**

#### **Summary:**

The Applicant submitted an access to information request to the Moose Jaw Police Service (MJPS) for records related to the investigation, charging, prosecution, reconsideration and staying of a charge against them. MJPS withheld all records, in full, under various sections of *The Local Authority Freedom of Information and Protection of Privacy Act (LA FOIP)*.

The Applicant requested a review by the Office of the Saskatchewan Information and Privacy Commissioner.

Subsequently, MJPS requested that the Commissioner discontinue the review under sections 39(2)(a) (an application for review that is frivolous or vexatious) and (b) (an application for review that is not made in good faith) of *LA FOIP*. MJPS also indicated that it was of the belief that the Applicant had failed to request a review within the legislated timeline under section 38(2) (an application for review may be made within one year of written notice of the decision of the head of the local authority) of *LA FOIP* and that the Applicant's lawyer was not authorized to exercise the Applicant's rights under section 49(e) (exercise of rights by other persons with written authorization to act on the individual's behalf) of *LA FOIP*. This Report (Part I) addresses these preliminary issues raised by MJPS.

The Commissioner made the following findings:

- The Applicant's lawyer is authorized to exercise the Applicant's rights under section 49(e) of *LA FOIP*.
- The Applicant submitted their request for review within the legislated one-year timeline.

- The Applicant's request for review is neither frivolous/vexatious, nor made in bad faith. As such, the review will continue.
- Within seven days of the issuance of this Report, MJPS is directed to provide OIPC an index of records and copy of the responsive records for the Commissioner's review.
- Within thirty days of the issuance of this Report, MJPS is directed to provide OIPC with a submission to substantiate its application of exemptions to withhold the records responsive to the Applicant's access request in full.

## I BACKGROUND

[1] On September 5, 2025, a lawyer for the Applicant submitted the following access to information request on the Applicant's behalf to Moose Jaw Police Service (MJPS) for the date range spanning October 2021 to the present:<sup>1</sup>

All records relating to the investigation, charging, prosecution, reconsideration and staying of the following charge against [the Applicant] (or any other documents relating to the matter). After an investigation by the MJPS, [the Applicant] was charged with one count of fraud over \$5,000. The complainant was [name redacted], relating to alleged events in October 2021. The charge was stayed at the request of the Crown on February 16, 2023. ...

[2] On September 26, 2025, MJPS provided a section 7 decision letter in response to the request. MJPS denied the Applicant access to the responsive records, in full, under sections 14(1)(a), (c), (i), and (k) of *The Local Authority Freedom of Information and Protection of Privacy Act (LA FOIP)*.<sup>2</sup> MJPS also advised the

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<sup>1</sup> The use of square brackets in this Report are amendments to quotes by OIPC to preserve the identity of the Applicant.

<sup>2</sup> [\*The Local Authority Freedom of Information and Protection of Privacy Act\*](#), S.S. 1990-91, c. L-27.1, as amended.

Applicant of their right to request a review of the decision and returned the uncashed \$20 application fee.

[3] On October 6, 2025, the Applicant requested a review by the Office of the Saskatchewan Information and Privacy Commissioner (OIPC) regarding the MJPS decision to withhold the responsive records in full.

[4] On December 17, 2025, OIPC notified MJPS and the Applicant that a review would be commenced. OIPC requested that MJPS provide an unredacted copy of the records and an index of records to OIPC by January 16, 2026. Both MJPS and the Applicant were invited to provide submissions by February 17, 2026.

[5] On January 13, 2026, MJPS requested OIPC discontinue the review on the basis that no reasonable grounds existed for a review. In the email provided to OIPC, MJPS asserted:

It is the position of the MJPS that the applicant is over the one-year time limit provided by statute and therefore the Commissioner would be outside their statutory authority to review this matter. The manner that the applicant has employed to bring this to review forward now is an abuse of process and should be considered as frivolous.

[6] In addition, MJPS notified OIPC that it did not intend to provide responsive records to this office for the Commissioner's review.

[7] Subsequently, the initial review was paused, and OIPC provided notice that the preliminary issue raised by MJPS would be addressed first. MJPS was advised of this on January 19, 2026, and to the Applicant on January 23, 2026. MJPS was required to provide a submission on the preliminary issue by February 2, 2026. It did so, and the submission was shared with the Applicant to enable the Applicant to respond in kind. The Applicant was invited and did provide a submission to OIPC by February 16, 2026.

## II ANALYSIS

### 1. Does the Applicant's lawyer have the authority to represent the Applicant in this matter?

[8] First, OIPC must evaluate the additional argument presented by MJPS regarding whether the Applicant provided written authorization for their lawyer to act on their behalf. In the submission, MJPS asserted:

Without the required written authorization I submit that [the lawyer for the Applicant] has no standing in the matter.

[9] MJPS references section 49(e) of *LA FOIP* in this argument and this section provides:

**49** Any right or power conferred on an individual by this Act may be exercised:

...

(e) by any person with written authorization from the individual to act on the individual's behalf.

[10] Section 49(e) of *LA FOIP* is intended to allow individuals with written authorization to act on behalf of other individuals and to take steps on their behalf under *LA FOIP*.<sup>3</sup>

[11] Counsel for the Applicant asserted that written authorization was in fact submitted to MJPS:

Written authorization was provided to the MJPS when the request was submitted. If the MJPS believed that further proof of authorization was required, the MJPS should have raised it before responding to the request in the first place.

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<sup>3</sup> OIPC [Review Report 109-2020](#) at paragraphs [23] and [24].

[12] Attachment “2” to the MJPS submission is a copy of an email from the Applicant to MJPS, dated September 3, 2025. In that email it is undeniable that the Applicant provided written authorization for counsel of their choice to act on their behalf in respect of this matter.

[13] Section 49(e) of *LA FOIP* does not limit how many times an individual may change counsel in the exercise of their rights under the Act. To do so would be a violation of the fundamental right to counsel. The right to counsel of choice upon arrest or detention is guaranteed by section 10(b) of the *Charter*.<sup>4</sup> Neither the common law or legislation can ever limit or prohibit one’s ability to retain and instruct counsel at any given time in a matter. It will become clear in this Report that at an earlier point in this matter the Applicant had retained another counsel and made an earlier access to information request of the MJPS. Since we do not have the earlier materials we cannot determine the exact nature of these two applications, but we accept that both parties are *ad idem* that while the two access to information requests were not *identical*, they were *similar*. As noted, each access to information request was brought by different counsel for the Applicant. If MJPS had concerns or confusion with respect to exactly who was acting on the Applicant’s behalf in respect of the second access to information request, we have no evidence that the Applicant was ever questioned further on this front. In fact, the September 26, 2025, section 7 decision letter was addressed to present counsel for the Applicant – the same individual as mentioned in Attachment “2” to the MJPS submission. We are persuaded by this that there was no confusion on the part of MJPS with respect to counsel for the Applicant so it is clear that present counsel acts with full authority on behalf of the Applicant.

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<sup>4</sup> *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c. 11.

**2. Has the legislated time passed for the Applicant to request a review?**

[14] MJPS asserted in its submission that the Applicant had overstepped the time to request a review:

The legal ability to request a review is provided by Section 38(2) of the Act. Section 38(2) explicitly states that an applicant or individual may apply in the prescribed form and manner to the Commissioner for a review, within one year after being given written notice of the decision of the Head.

... I submit that [the Applicant] had until 2024JUN15 to request a review by your office.

[15] Section 38(2) of *LA FOIP* states:

**38(2)** An applicant or an individual may make an application pursuant to subsection (1) within one year after being given written notice of the decision of the head or of the expiration of the time mentioned in clause (1)(b).

[16] MJPS argued that since the Applicant had submitted two similar access to information requests in the past two years: “Although the ask is worded differently the requested information is the same...”.

[17] In order to simplify the facts for the parties in this matter and the reader, we note the following timeline of this matter:

- The Applicant submitted the first access to information request on May 2, 2023, to which MJPS provided a section 7 decision letter on June 15, 2023. This will hereafter be referred to in this Report as the “First Request”.
- The Applicant submitted a second access to information request on September 5, 2025, to which MJPS provided a section 7 decision letter on September 26, 2025. This will hereafter be referred to in this Report as the “Second Request”.

[18] MJPS argued that, because it interpreted the Second Request as “the same” as the First Request, the decision was final and unchanging. MJPS did not provide a copy of the First Request to this office as part of the submission. OIPC has reviewed the June 15, 2023, section 7 decision letter in response to the First Request and the September 26, 2025, section 7 decision letter in response to the Second Request. We do not have the materials that formed the results of both MJPS access requests, and which were withheld in full on both occasions. These two section 7 decision letters differ in that there was the addition of a new legislative exemption under the same overall section of *LA FOIP* as applied by the MJPS in the second review that was not included in the first. We see this as significant since it may point to an added element of analysis that was deemed unnecessary in the first review. MJPS relied upon *Ontario v. O.P.S.E.U.*<sup>5</sup> and the doctrine of estoppel to bring this argument to a close:

... The Supreme Court of Canada defines the doctrine of estoppel as being applicable when it meets two requirements. First the issue must be the same which has been decided in the prior decision and that decision must be final. In this case, the issue, ie the request of the applications, is the same, and the decision was final as the applicants chose not to apply to the Privacy Commissioner to have the decision reviewed. ... As both applications are made by ... the same party ... and they are both dealing with the same issue, there is sufficient mutuality to permit the doctrine of estoppel to apply to the applications.

[19] In response, counsel for the Applicant asserted:

... No issue was ever decided against the Applicant, and the Second Request is different in scope and purpose – even if there had been a decision in connection with the First Request, it would not have dealt with the current scope of documents or the current reason for requesting them.

... If the Legislative Assembly of Saskatchewan intended that a person would lose their fundamental right to obtain access to their information solely because they submitted a similar request years earlier, the restriction would be clearly set out in *LA FOIP*.

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<sup>5</sup> [\*Ontario v. O.P.S.E.U.\*](#), 2003 SCC 64, [2003] 3 SCR 149.

[20] While *LA FOIP* does not instruct a local authority to deny an applicant records on the basis that a similar (or even identical) request for the same records has been made previously, it does allow for local authorities to apply to OIPC to disregard the request under subsections 43.1(2)(a) and/or (b) of the Act when the issue of repetition becomes abusive or would unreasonably interfere with the local authority operations. However, this must be done within the first 30 days of having received the request as stipulated in section 31(2)(c) of *LA FOIP*. MJPS did not choose to follow this option. Rather, MJPS accepted the Applicant's Second Request, processed it, and provided a section 7 decision letter. The section 7 decision letter offered no indication to the Applicant that MJPS was of the view that this was a repetitive or redundant request. On the contrary, MJPS advised the Applicant of the right to request a review by this office on the basis of having applied different exemptions. These actions do not suggest that MJPS considered the Second Request invalid because of its similarity.

[21] This office notes that in terms of calculating the one-year timeline for requesting a review, section 38(2) of *LA FOIP* does not contemplate repetitiveness of an access to information request as a factor to consider when calculating the one-year timeline. Such issues are only contemplated under section 43.1 of *LA FOIP*.

[22] Having established the Second Request stands as legitimate and valid, this office will now consider the legislated one-year time limit in relation to the Second Request, for which the relevant chronology of events is as follows:

- **September 5, 2025:** The Applicant made the Second Request.
- **September 26, 2025:** MJPS provided a section 7 decision letter to the Applicant.
- **October 6, 2025:** The Applicant requested a review by OIPC.

[23] A calculation of “one year” is informed by section 2-28 of *The Legislation Act*.<sup>6</sup> Based on the fact that the Applicant was provided a section 7 decision letter on September 26, 2025, the Applicant would have been obligated to request a review by *September 27, 2026*.

[24] Having requested a review on October 6, 2025 (nine days after the provision of the section 7 decision letter by MJPS), the Applicant clearly requested a review by this office of the decision by MJPS to withhold the requested records *within the legislated timeframe of one-year*.

**3. Did the Applicant request a review on grounds that are frivolous, vexatious or not in good faith?**

[25] In a submission to OIPC, MJPS asked this office to consider discontinuing this review pursuant to sections 39(2)(a) and (b) of *LA FOIP*. These provisions provide:

**39(2)** The commissioner may refuse to conduct a review or may discontinue a review if, in the opinion of the commissioner, the application for review:

- (a) is frivolous or vexatious;
- ...
- (b) is not made in good faith;

[26] OIPC defines “frivolous”, “vexatious” and “not in good faith” as follows:<sup>7</sup>

- The term “frivolous” is typically associated with matters that are trivial or without merit, lacking a legal or factual basis or merit, not reasonably purposeful, or of little weight or importance.
- The term “vexatious” means without reasonable or probable cause or excuse. This office accepts that a request is vexatious when the primary purpose of the request is not to gain access to records, but

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<sup>6</sup> [The Legislation Act](#), S.S. 2019, c. L-10.2, as amended.

<sup>7</sup> OIPC [Review Report 001-2021 – PART I](#), at paragraphs [15], [16], [31] and [32].

to continually (and repeatedly) harass a public body to obstruct or grind a public body to a standstill. Historically, OIPC has taken “vexatious” to refer to an action taken with an intent to annoy, harass, embarrass, or cause discomfort. However, a request is not inherently vexatious simply because a local authority *experiences* annoyance or irritation.

- The term “good faith” means the state of mind denoting honesty of purpose, freedom from intention to defraud, and generally speaking, means being faithful to one’s duty or obligation. “Good faith” is an intangible quality encompassing honest belief, the absence of malice, and the absence of design to defraud or take advantage of something. The term “not in good faith,” then, means the opposite of “good faith,” generally implying or involving actual or constructive fraud, or a design to mislead or deceive another, or a neglect or refusal to fulfill some duty or other contractual obligation, *not* prompted by an honest mistake as to one’s rights, but by some interested or sinister motive. Bad faith is not simply bad judgment or negligence, but rather it implies the conscious doing of a wrong because of dishonest purpose or moral ubiquity; it is different from the negative idea of negligence in that it contemplates a state of mind affirmatively operating with furtive design or ill will.

[27] In the submission, MJPS asserted:

This duplicate application is an abuse of process. A duplicate application cannot be used to retry the original issue of the application, if the parties wanted a review of the outcome of the original application, they had a legislative ability to do so under the review process in the act. They chose not to. To allow an application to proceed, where the issue has been legally decided by the party who is legislatively empowered to provide a decision on the application, which has not been appealed or reviewed within the legislative timeframe, is to allow parties to override the process that legislature intended, thereby nullifying the applicability of the legislation. To allow the applicants to make an application that is, in its essence *res judicata*, is to allow the parties to circumvent the legislatively dictated process and in doing so would violate the integrity of the administration of justice. As the applicant(s) are well aware that this second application is a duplication of the first (given that they referenced the first application in their newest attempt) this second application is not only frivolous but is also vexatious and as such any further consideration of the issue should be denied.

[28] Counsel for the Applicant asserted in their submission:

... There is no inherent prohibition on submitting multiple requests. The Second Request was made in good faith and for a legitimate purpose. It is not an abuse of access. ... the Applicant's request was made in good faith and on a legitimate basis.

... Two requests over more than two years is reasonable. They are not excessive and they cause no significant operational interference with the MJPS. Indeed, the MJPS could have produced the records in less time than has been spent seeking to have the Second Request dismissed. ...

... As can be seen from the text of the Second Request ..., it was made respectfully. The request also included additional information and materials to assist the MJPS in responding to it.

... There is no intention, or any evidence of an intention, to harass the MJPS or break or burden the system.

... There is no reason for the review to be discontinued. The MJPS's request should be rejected and the review should proceed expediently.

[29] When considering if a request for review was made on grounds that were frivolous, vexatious, or not in good faith, this office must determine whether there is a pattern or type of conduct that amounts to an abuse of the right of access. Depending on the nature of the case, one factor alone (or multiple factors in concert with each other) can lead to a finding that a request for review amounts to an abuse of the right of access. What follows is a discussion of the factors this office must consider in this matter and an application of the factors to the facts in this case.<sup>8</sup>

[30] **Is the number of requests excessive?** Where the volume of requests interferes with the operations of a local authority it can be argued the requests are excessive. To interfere with operations, the volume of requests must obstruct or hinder the range of effectiveness of the normal activities of a local authority. This office cannot conclude that the number of requests for review made by the Applicant is excessive. The Applicant has initiated no other requests for review with OIPC and has submitted just two access to information requests to MJPS in the span of three years. This is, decidedly, not excessive.

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<sup>8</sup> *Ibid*, at paragraph [18].

[31] **Nature and scope of the requests: Are they excessively broad and varied in scope or unusually detailed? Are they identical to, or similar to, previous requests?** As noted earlier, OIPC was not furnished with the First Request. We are unable to conclude that the two access to information requests are the same as argued by the MJPS. As stated, the two section 7 decision letters are not identical because an additional exemption was raised in the second section 7 letter that was not present in the first. For all of these reasons, we are unable to conclude that the two access to information requests were the same.

[32] **Purpose of the requests: Are the requests intended to accomplish some objective other than to gain access? For example, are they made for “nuisance” value, or is the applicant’s aim to harass the local authority or break or burden the system?** Without a doubt, the purpose of the request is to gain clarity on an issue of great personal importance to the Applicant. The Applicant’s access request can surely not be perceived as a nuisance by the MJPS. It appears the Applicant simply wants to understand the laying of charges against them by the MJPS.

[33] **Wording of the request: Are the requests or subsequent communications in their nature offensive, vulgar, derogatory or contain unfounded allegations?** Our review reveals that all of the Applicant’s communications have been professional.

[34] In consideration of all of the above, there is a finding that the Applicant’s request for review is neither frivolous/vexatious, nor made in bad faith. As such, the review will continue.

### III CONCLUSIONS

[35] The Applicant’s lawyer is authorized to exercise the Applicant’s rights under section 49(e) of *LA FOIP*.

- [36] The Applicant submitted their request for review of the Second Request within the legislated one-year timeline.
- [37] The Applicant's request for review is neither frivolous, vexatious nor made in bad faith. As such, the review will continue.
- [38] Within seven days of the issuance of this Report, MJPS is directed to provide OIPC with an index of records and copy of the responsive records for the Commissioner's review.
- [39] Within thirty days of the issuance of this Report, MJPS is directed to provide to OIPC a submission to substantiate its application of exemptions to withhold the records responsive to the Applicant's Second Request in full.

Dated at Regina, in the Province of Saskatchewan, this 5<sup>th</sup> day of March 2026.

Grace Hession David  
Saskatchewan Information and Privacy Commissioner