



Office of the  
Saskatchewan Information  
and Privacy Commissioner

## REVIEW REPORT 051-2025

### Saskatoon Police Service

June 11, 2025

**Summary:** The Applicant submitted a formal access to information request to the Saskatoon Police Service (SPS) for body worn camera footage. SPS responded to the Applicant by providing them with access to portions of the footage but refused access to other portions pursuant to subsections 14(1)(k) and 28(1) 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. The Commissioner found that SPS properly applied subsections 14(1)(k) and 28(1) of LA FOIP to the record at issue. The Commissioner recommended that SPS continue to withhold the portions to which SPS applied subsections 14(1)(k) and 28(1) of LA FOIP.

### I BACKGROUND

[1] On February 19, 2024, a conflict between the Applicant and a family member occurred outside the front entrance of a Saskatoon hospice. Two Saskatoon Police Service (SPS) officers arrived at the scene. One of the officers recorded the interactions between the Applicant and the family member with a body worn camera (BWC).

[2] On March 20, 2024, SPS received the following access to information request from the Applicant:

Hi, I am requesting two pieces of information I would like from an incident that occurred February 19th at the address of 301 hilliard [sic] St E (Hospice at Glengarda):

First piece of information I request is the body camera footage from the officer(s) on scene, there was only one active camera going, as the other officer didn't have his he said.

Second piece of information is I request the officers [sic] names and their badge numbers as well, please and thank you!

- [3] In a letter dated May 27, 2024, SPS responded to the Applicant. SPS said it was granting the Applicant partial access to the record at issue by withholding portions pursuant to subsections 14(1)(k) and 28(1) of LA FOIP. In its letter, SPS also provided the names and badge numbers of the officers to the Applicant.
- [4] On February 28, 2025, the Applicant's representative requested a review on the Applicant's behalf.
- [5] On March 14, 2025, the Office of the Information and Privacy Commissioner (OIPC) provided notice of a review to the Applicant and SPS.
- [6] On April 10, 2025, SPS provided OIPC with the record at issue, and its submission on May 12, 2025. SPS did not consent to OIPC sharing the submission with the Applicant.
- [7] The Applicant did not provide a submission in this review.

## II RECORD AT ISSUE

- [8] The record at issue is footage from an officer's BWC. The footage is 27 minutes and 7 seconds long. Below is a breakdown of the video recording footage and where the SPS redacted video/audio from the footage.

Portion	Time	LA FOIP Exemption(s) applied by SPS	Video and/or audio severed	Description
1	00:00 to 00:26	14(1)(k), 28(1) of LA FOIP	Video partially severed	Footage of inside of police vehicle as

				<p>police officer is driving to the scene.</p> <p>The image of the mobile data terminal inside the police vehicle is redacted.<sup>1</sup></p>
2	00:26 to 09:36	N/A	No severance (Released to Applicant)	
3	09:36 to 12:14	14(1)(k), 28(1) of LA FOIP	Video and audio severed	<p>Footage of a conversation between Applicant's family member with police officers.</p> <p>Both video and audio are redacted.</p>
4	12:14 to 12:32	N/A	No severance (Released to Applicant)	
5	12:32 to 12:43	28(1)	Video severed	<p>Footage of a conversation between Applicant, Applicant's family member, and police officers.</p> <p>Video of Applicant's family member is redacted.</p> <p>Audio was released.</p>
6	12:43 to 14:16	N/A	No severance (Released to Applicant)	
7	14:16 to 15:40	14(1)(k), 28(1) of LA FOIP	Video and audio severed	<p>Footage of a conversation between Applicant's family member and police officers.</p> <p>Video and audio are severed.</p>

<sup>1</sup> The "mobile data terminal" is the computer screen attached to the dashboard in all police vehicles.

8	15:40 to 16:13	N/A	No severance (Released to Applicant)	
9	16:13 to 19:12	28(1)	Video severed	Footage of conversation between two family members of the Applicant, a hospice employee and police officers.  Video is severed.  Audio was released.
10	19:12 to 20:39	N/A	No severance (Released to Applicant)	
11	20:39 to 25:02	14(1)(k), 28(1) of LA FOIP	Video and audio severed	Footage of a conversation between Applicant's family member and police officers.  Video and audio are severed.
12	25:02 to 25:07	N/A	No severance (Released to Applicant)	

### III DISCUSSION OF THE ISSUES

#### 1. Do I have jurisdiction?

[9] SPS qualifies as a "local authority" pursuant to subsection 2(1)(f)(viii.1) of LA FOIP. Therefore, OIPC has jurisdiction to conduct this review.

#### 2. Did SPS properly apply subsection 14(1)(k) of LA FOIP?

[10] SPS applied subsection 14(1)(k) of LA FOIP to the following portions of the BWC footage as reviewed above:

Portion	Time	Video and/or audio severed	Description
1	00:00 to 00:26	Video partially severed	Footage of inside of police vehicle as police officer is driving to the scene.  The image of the mobile data terminal inside the police vehicle is redacted.
3	09:36 to 12:14	Video and audio severed	Footage of conversation between Applicant's family member with police officers.  Both video and audio are redacted.
7	14:16 to 15:40	Video and audio severed	Footage of conversation between Applicant's family member and police officers.  Video and audio are severed.
11	20:39 to 25:02	Video and audio severed	Footage of conversation between Applicant's family member and police officers.

			Video and audio are severed.
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[11] Subsection 14(1)(k) of LA FOIP provides as follows:

14(1) A head may refuse to give access to a record, the release of which could:

...

(k) interfere with a law enforcement matter or disclose information respecting a law enforcement matter;

[12] In past reports, such as [Review Report 147-2024](#) at paragraph [27], OIPC has used the following two-part test to determine if subsection 14(1)(k) of LA FOIP applies:

1. Is there a law enforcement matter involved?
2. Does one of the following exist?
  - a. Could the release of the information interfere with a law enforcement matter?
  - b. Could the release disclose information respecting a law enforcement matter?

[13] The same test will be used here.

***1. Is there a law enforcement matter involved?***

[14] LA FOIP does not define the term “law enforcement”. In [Review Report 093-021](#), former Commissioner Derril G. McLeod, K.C. described “law enforcement” and notes that *The Freedom of Information and Protection of Privacy Regulations* (FOIP Regulations) sets out a list of prescribed law enforcement agencies as follows:

So also, the expression “law enforcement” must, in my view, be considered to pertain to enforcement of laws of general or particular application by appropriate law enforcement agencies, and not to the determination of private issues or rights between parties to a contract as appears to be the case here.

...

Regulations made pursuant to the Act provide that the prescribed law enforcement agencies or investigative bodies are the RCMP, CSIS, local police forces...

[Emphasis added]

- [15] Similar to the FOIP Regulations, subsection 9(b) of *The Local Authority Freedom of Information and Protection of Privacy Regulations* (LA FOIP Regulations) sets out a list of prescribed law enforcement agencies, including a police service or regional police service within the meaning of *The Police Act, 1990*, as follows:

9 For the purposes of clause 28(2)(g) of the Act, the following law enforcement agencies and investigative bodies are prescribed as law enforcement agencies or investigative bodies to which personal information may be disclosed:

...

(b) a police service or regional police service within the meaning of *The Police Act, 1990*;

- [16] Therefore, SPS is a prescribed law enforcement agency pursuant to subsection 9(b) of the LA FOIP Regulations.

- [17] Next, I need to determine if SPS' activity documented in the footage qualifies as a law enforcement matter.

- [18] In its submission, SPS cited the definition of "law enforcement" from Alberta's *Freedom of Information and Protection of Privacy Act* (AB FOIP). However, since AB FOIP will soon be repealed and Alberta's *Access to Information Act* is yet to be proclaimed, I will consider the definition of "law enforcement" from other provinces and territories.

- [19] Schedule 1 of British Columbia's *Freedom of Information and Protection of Privacy Act* (BC FOIP) defines "law enforcement" as follows:

**"law enforcement"** means

(a) policing, including criminal intelligence operations,

(b) investigations that lead or could lead to a penalty or sanction being imposed, or

(c) proceedings that lead or could lead to a penalty or sanction being imposed;

- [20] Section 1 of Yukon’s *Access to Information and Protection of Privacy Act* (Yukon ATIPP Act) provides a similar definition:

**“law enforcement”** means

(a) policing, including criminal or security intelligence operations,

(b) a police, security intelligence, criminal or regulatory investigation, including the complaint that initiates the investigation, that leads or could lead to a penalty or sanction being imposed, or

(c) a proceeding that leads or could lead to a penalty or sanction being imposed; « exécution de la loi »

- [21] Section 2(n) of Newfoundland’s *Access to Information and Protection of Privacy Act* (NFLD ATIPP Act) also defines “law enforcement” similar to BC FOIP’s definition:

**2. In this Act**

(n) **“law enforcement”** means

(i) policing, including criminal intelligence operations, or

(ii) investigations, inspections or proceedings conducted under the authority of or for the purpose of enforcing an enactment which lead to or could lead to a penalty or sanction being imposed under the enactment;

- [22] Since the definitions of “law enforcement” between BC FOIP, Yukon ATIPP Act and NFLD ATIPP Act are similar, OIPC will adopt the definition of “law enforcement” from BC FOIP to conduct for the purposes of its analysis.

- [23] Further, in [\*Evenson v Saskatchewan \(Ministry of Justice\)\*, 2013 SKQB 296 \(CanLII\)](#) (*Evenson*), the Court of King’s Bench considered subsection 15(1)(k) of *The Freedom of Information and Protection of Privacy Act* (FOIP) (which is the equivalent of subsection 14(1)(k) of LA FOIP). In *Evenson*, the Court of King’s Bench said the following regarding “law enforcement matter”:



...Once again, there is nothing in s. 15(1)(k) that says that the prejudice or interference with a law enforcement matter must be in respect to an ongoing investigation. In the case of *Ontario (Ministry of Community Safety and Correctional Services) v. Ontario (Information and Privacy Commission)* (2007), 231 O.A.C. 230, [2007] O.J. No. 4233 (Ont. C.A.), the Court rejected the suggestion that a narrow view of the law enforcement exemption should be taken and stated at paragraphs 72 and 73:

[72] ... The plain and ordinary meaning of the word “matter” is very broad. We find that “matter” does not necessarily always have to apply to some specific on-going investigation or proceeding. The Adjudicator, in our view, erred in taking too narrow a view of the word “matter” in this particular case. ...

[Emphasis added]

- [24] Portion 1 is footage of the inside of a police vehicle where the police officer is driving to the scene. The image of the mobile data terminal inside the police vehicle is redacted. The SPS explained the following:

I have been advised that during the implementation process when the SPS began using BWC's, inquiries were made of other police services who were using them to determine best practices. I am further advised that, as a result of those inquiries, it was determined that redacting the police mobile screen in police vehicles was common practice. As a result, the SPS adopted that practice and incorporated it into its Standard Operating Procedure. The SPS redacts the screen in all cases, even when disclosure is being provided for court purposes.

I am advised that in many BWC videos, it is not possible to read any of the information that is on the screen. I am also advised that that is the situation in this case. In light of that, removing the redaction would serve no useful or practical purpose.

Because it is not possible to read the screen, it is not possible to say whether the information displayed on the screen related to this matter or one or more totally unrelated matters. If it is the latter, the information would be irrelevant/non-responsive. In many cases where the screen can be read, that is the situation.

In any case, whether the information on the screen related to this matter or one or more totally unrelated matters, the information would relate to a law enforcement matter since that is the only type of information that is displayed on the screen. As a result, s.14(1)(k) would apply. It is possible that public interest immunity privilege might also apply to the information, but SPS does not believe it is necessary to assert that privilege given that s.14(1)(k) would seem to clearly apply.

[Emphasis added]

[25] OIPC is satisfied that portion 1 meets the first part of the two-part test for subsection 14(1)(k) of LA FOIP.

[26] With regard to portions 3, 7 and 11, SPS said the following:

As a police service, many of the activities of the SPS qualify as a lawful investigation. It should be noted that the police's powers of investigation are broad and stem from various pieces of legislation both provincially and federally, and to narrow the issue down to a specific section of legislation would not be an accurate reflection of those powers. However, among the police powers of investigation, section 36(2) of *The Police Act, 1990* provides the following:

**36(2)** Unless otherwise indicated in his or her appointment, a member has the power and the responsibility to:

(a) Perform all duties that are assigned to constables or peace officers in relation to:

(i) the preservation of peace;

(ii) the prevention of crime and offences against the laws in force in the municipality; and

(iii) the apprehension of criminals, offenders and other who may lawfully be taken into custody;

(b) execute all warrants and perform all duties and services under or in relation to them that, pursuant to the laws in force in the municipality, may lawfully be executed and performed by constables or peace officers; and

(c) perform all duties that may lawfully be performed by constables or peace officers in relation to the escorting and conveyance of persons in lawful custody to and from courts, places of confinement, correctional facilities or camps, hospitals or other places.

The record was created in response to a call for service where the applicant had asked police to attend to a hospice to stand by while the applicant retrieve his belongings from a family member. Upon attendance, the applicant became extremely angry and belligerent with the family member as well as police. Police attempted to deescalate the situation, however the applicant refused to follow police direction, and was in turn told to leave by hospice staff and by

police. While charges were not laid in this occurrence, it does not negate from the fact that the actions of the officers constituted a law enforcement matter as contemplated by section 36(2) of the Police Act. *Criminal Code* charges would have been laid by the officers, had the applicant not complied with the officers' directions.

[Emphasis added]

- [27] Based on a review of portions 3, 7 and 11, OIPC noted that they are footage from a BWC that documents two SPS members carrying out their duties under subsection 36(2)(a) of *The Police Act, 1990*. OIPC notes that at the 13 minute: 25 second mark to the 13 minute: 34 second mark (a portion of the footage that was released to the Applicant), an SPS police member informs the Applicant that SPS was on the scene to keep the peace and could arrest the Applicant for causing a public disturbance by swearing in public and shouting. SPS member informed the Applicant that swearing in public and shouting is a criminal offence. This footage supports that the two SPS members attended the scene as part of a law enforcement matter and that the footage from the BWC captures images and audio of the law enforcement matter. Portions 3, 7 and 11 meet the first part of the two-part test for subsection 14(1)(k) of LA FOIP.

**2. Does one of the following exist?**

***a. Could the release of the information interfere with a law enforcement matter?  
or***

***b. Could the release disclose information respecting a law enforcement matter?***

- [28] In its submission, SPS asserted that the release of the footage could disclose information with respect to a law enforcement matter.
- [29] First, OIPC needs to consider the word “could” as section 14 of LA FOIP uses the word “could” versus “could reasonably be expected to.” At page 4 of [Review Report 92-008](#), former Commissioner Derril G. McLeod, K.C. explained the requirement to be met when the exemption sets out that an injury “could” happen as a “mere possibility of an injurious effect”:

While in other sections of the Act such as Section 14 and Section 17, the Act refers to withholding the release of records which "could reasonably be expected" to have a particular result, it should be noted that in Section 15 the requirement is simply the release of information which "could" have the specified result. In the face of this language I must accept the submission of counsel for SaskPower that the mere possibility of an injurious effect would be sufficient to enable the head to withhold disclosure under Section 15(l)(d).

[Emphasis added]

- [30] In [Review Report LA-2007-001](#) at paragraph [117], OIPC explained, in general, that the use of the term "could" involves a lower threshold of eventuality than that associated with "could reasonably be expected":

In Report 92/008, a former Commissioner noted that unlike sections 14 and 17 of FOIP, where the exemption requires that the release of records "could reasonably be expected" to have a particular result, in section 15 of FOIP the requirement is simply that the release of information "could" have the specified result. This Report supports the proposition that to invoke section 14(1)(d) the threshold test is somewhat lower than a "reasonable expectation". Nonetheless, there would still have to be some kind of basis to found such an expectation. If it is fanciful or exceedingly remote, section 14(1)(d) could not be successfully invoked.

[Emphasis added]

- [31] As such, it is expected that SPS demonstrate that the release of the footage has a mere possibility of disclosing information respecting a law enforcement matter. The *Canadian Abridgement Words & Phrases* says the following regarding the phrase "in respect of" and "with respect to":

In *Nowegijick v. R.*, [1983] 1 S.C.R. 29 (S.C.C.), at p. 39, the Supreme Court of Canada held that the words "in respect of" are "words of the widest possible scope"; the phrase is "probably the widest of any expression intended to convey some connection between two related subject matters". The Supreme Court later applied the same interpretation to the words "with respect to": *CanadianOxy Chemicals Ltd. v. Canada (Attorney General)*, [1999] 1 S.C.R. 743 (S.C.C.), at paras. 15-17.<sup>2</sup>

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<sup>2</sup> "With respect to" – *Canadian Abridgement Words & Phrases* 15895 – electronically via [Westlaw Canada](#).

[Emphasis added]

[32] Therefore, if there is a connection between releasing the footage and a mere possibility of disclosing information respecting the law enforcement matter that is documented in the footage, then the requirement of subsection 14(1)(k) of LA FOIP is met.

[33] In its submission, SPS said as follows:

Information within the video recording that was withheld pursuant to subsection 14(1)(k) includes the statements made to police by the family member and hospice staff where the applicant and/or his [family member] was not physically present in the building. The statements collected fall directly within police employee's duties, and is authorized as per subsection 36(2)(a) of the Police Act as well as the *Criminal Code*.

[34] Portion 1 of the record at issue is footage of the inside of the police vehicle. OIPC is satisfied that the contents of the mobile data terminal contain information related to a law enforcement matter, the disclosure of which could release information respecting a law enforcement matter. As such, portion 1 of the record at issue meets the second part of the two-part test.

[35] Portions 3, 7 and 11 contain footage of conversations between the Applicant's family member and the police officers regarding the law enforcement matter. Therefore, the release of the redacted portions 3, 7 and 11 could reveal information respecting the law enforcement matter. As such, portions 3, 7 and 11 meet the second part of the two-part test.

### ***Exercise of discretion***

[36] Subsection 14(1)(k) is a discretionary exemption. At paragraphs 45 to 48 of [\*Ontario \(Public Safety and Security\) v. Criminal Lawyers' Association\*, 2010 SCC 23 \(CanLII\)](#) (*Ontario (Public Safety and Security)*), the Supreme Court of Canada explained the steps the head of a public body must take in its exercise of discretion as follows:

[45] However, by stipulating that “[a] head may refuse to disclose” a record in this category, the legislature has also left room for the head to order disclosure of particular records. This creates a discretion in the head.

[46] A discretion conferred by statute must be exercised consistently with the purposes underlying its grant: *Baker v. Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699 (SCC), [1999] 2 S.C.R. 817, at paras. 53, 56 and 65. It follows that to properly exercise this discretion, the head must weigh the considerations for and against disclosure, including the public interest in disclosure.

[47] By way of example, we consider s. 14(1)(a) where a head “may refuse to disclose a record where the disclosure could reasonably be expected to . . . interfere with a law enforcement matter”. The main purpose of the exemption is clearly to protect the public interest in effective law enforcement. However, the need to consider other interests, public and private, is preserved by the word “may” which confers a discretion on the head to make the decision whether or not to disclose the information.

[48] In making the decision, the first step the head must take is to determine whether disclosure could reasonably be expected to interfere with a law enforcement matter. If the determination is that it may, the second step is to decide whether, having regard to the significance of that risk and other relevant interests, disclosure should be made or refused. These determinations necessarily involve consideration of the public interest in open government, public debate and the proper functioning of government institutions. A finding at the first stage that disclosure may interfere with law enforcement is implicitly a finding that the public interest in law enforcement may trump public and private interests in disclosure. At the second stage, the head must weigh the public and private interests in disclosure and non-disclosure, and exercise his or her discretion accordingly.

[Emphasis added]

[37] In past reports<sup>3</sup>, OIPC has provided the following list of factors that the head of a government organization should take into account when exercising their discretion:

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<sup>3</sup> See OIPC [Review Report 305-2016](#) at paragraph [35]; OIPC [Review Report 333-2017](#) at paragraph [14]; OIPC [Review Report 334-2017](#) at paragraph [14]; OIPC [Review Report 335-2017](#) at paragraph [14]; OIPC [Review Report 086-2018](#) at paragraph [80]; OIPC [Review Report 135-2019](#) at paragraph [27]; OIPC [Review Report 381-2019](#) at paragraph [27]; OIPC [Review Report 023-2020, 027-2020](#) at paragraph [68]; OIPC [Review Report 115-2020, 116-2020, 117-2020](#) at paragraph [92]; OIPC [Review Report 132-2020](#) at paragraph [23]; OIPC [Review Report 017-2023](#) at paragraph [55]; OIPC [Review Report 022-2023, 028-2023](#) at paragraph [84]; OIPC [Review Report 314-2023](#) at paragraph [47]; OIPC [Review Report 016-2024](#) at paragraph [214].

- The general purposes of the Act (i.e. local authorities should make information available to the public, and individuals should have access to personal information about themselves).
- The wording of the discretionary exemption and the interests which the exemption attempts to protect or balance.
- Whether the applicant's request may be satisfied by severing the record and providing the applicant with as much information as is reasonably practicable.
- The historical practice of the local authority with respect to the release of similar types of records.
- The nature of the record and the extent to which the record is significant or sensitive to the local authority.
- Whether the disclosure of the information will increase public confidence in the operation of the local authority.
- The age of the record.
- Whether there is a definite and compelling need to release the record.
- Whether the Commissioner's recommendations have ruled that similar types of records or information should be released.

[38] Further, at paragraph [71] of [\*Ontario \(Public Safety and Security\)\*](#), the Supreme Court of Canada confirmed the Ontario's Information and Privacy Commissioner's authority to review and to quash a decision by a public body to not disclose information pursuant to a discretionary exemption and to return the matter for reconsideration by the head of a public body where:

- the decision was made in bad faith;
- the decision was made for an improper purpose;
- the decision took into account irrelevant considerations; or
- the decision failed to take into account relevant considerations.

[39] In this case, SPS said as follows:

When exercising its discretion, the SPS considered:

- The general purpose of the Act;
- The wording of the exemption and the interests which the exemption attempts to protect or balance;
- Whether the applicant's request may be satisfied by severing the record and providing the applicant with as much information as it reasonably practicable; and
- The historical practice of the SPS.

It is understood that the overarching purpose of access to information legislation is to facilitate democracy through a mechanism for citizens to obtain information required to participate in the democratic process, and to ensure accountability by government. The SPS has already established that the records were generated in response to a law enforcement matter, and the wording of the exemption is clear that disclosure of the information could interfere with a law enforcement matter or disclose information respecting a law enforcement matter.

Historically, the SPS has adopted the practice not to disclose information provided by witnesses through the freedom of information scheme. Individuals who are charged with an offence are provided with full disclosure through the court process, if applicable. In order to preserve the public's confidence in the ability to provide statements to police free from consequence, the SPS typically does not disclose information provided by witnesses outside of the required criminal disclosure process. The applicant was not charged with an offence in this matter, which removes the expectation of disclosure in order to make a full answer and defence as protected by the *Charter*. As no criminal element was present, the consideration turned to the above-noted protection of a member of the public's confidence in providing statements to police.

The SPS did not exercise its discretion in bad faith or for an improper purpose, considered all relevant factors, and redacted very little from the record itself. As shown in the record, the applicant's actions during his interaction with police was an extreme response to a situation that did not warrant such elevated behavior. The applicant chose to yell obscenities while at a location that one would expect respect to be shown. His inability to calm himself despite the presence of police escalated the situation, to the point where he was warned multiple times by officers that he would be arrested if he did not calm down and/or leave.



[40] Based on SPS' submission, it appears that SPS has considered the relevant factors such as the purpose of subsection 14(1)(k) of LA FOIP and the purpose of FOIP. Further, its decision to withhold only portions of the record pursuant to subsection 14(1)(k) of LA FOIP supports how SPS has released as much information as it reasonably can while ensuring effective law enforcement.

[41] There is a finding that SPS properly applied subsection 14(1)(k) of LA FOIP to portions 1, 3, 7 and 11 of the record at issue. There will be a recommendation that SPS continue to withhold portions 1, 3, 7 and 11 of the record at issue pursuant to subsection 14(1)(k) of LA FOIP.

**3. Did SPS properly apply subsection 28(1) of LA FOIP?**

[42] Since there is a finding that SPS properly applied subsection 14(1)(k) of LA FOIP to portions 1, 3, 7 and 11, OIPC needs to review SPS's reliance on subsection 28(1) of LA FOIP to portions 5 and 9 as follows:

Portion	Time	Video and/or audio severed	Description
5	12:32 to 12:43	Video severed	Footage of conversation between Applicant, Applicant's family member, and police officers.  Video of Applicant's family member is redacted.  Audio was released.
9	16:13 to 19:12	Video severed	Footage of conversation between two family members of the Applicant, a hospice employee and police officers.

			Video is severed. Audio was released.
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[43] Subsection 28(1) of LA FOIP provides 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.

[44] In past reports, such as [Review Report 291-2024](#) at paragraph [16], OIPC has explained that subsection 28(1) of LA FOIP protects the privacy of individuals whose personal information may be contained within records responsive to an access to information request made by someone else. For information to be exempt from access pursuant to subsection 28(1) of LA FOIP, the information must qualify as “personal information” as defined at subsection 23(1) of LA FOIP, though the list provided at subsection 23(1) of LA FOIP is not exhaustive. To be personal information, the information must be about an identifiable individual (or the individual must be capable, or reasonably capable, of being identified), and the information must be personal in nature. Where the personal information involves the applicant, unless another exemption applies, pursuant to subsection 30(1) of LA FOIP, the applicant shall be given access. Subsection 30(1) of LA FOIP provides:

**30(1)** Subject to Part III and subsections (2) and (3), an individual whose personal information is contained in a record in the possession or under the control of a local authority has a right to, and:

(a) on an application made in accordance with Part II; and

(b) on giving sufficient proof of his or her identity;

shall be given access to the record.

[45] In this review, subsections 23(1)(a) and (f) of LA FOIP are relevant. These subsections provide as follows:

23(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:

(a) information that relates to the race, creed, religion, colour, sex, sexual orientation, family status or marital status, disability, age, nationality, ancestry or place of origin of the individual;

...

(f) the personal opinions or views of the individual except where they are about another individual;

[46] In its submission, SPS explained its application of subsection 28(1) of LA FOIP as follows:

The IPC’s *Guide to LA FOIP* provides that in order to withhold information pursuant to the above-noted subsection, the public body must first confirm that the information qualifies as personal information. Images and the statement of the family member are redacted as the image and statement of the family member are her personal information. Images of individuals are not specifically listed in the definition of personal information in subsection 23(1) of LA FOIP; however, the family member is identifiable in the video as the video does show personal characteristics such as their gender, age, ethnicity, etc. The individual is also acting in their personal capacity in their interaction with police. Therefore, these images qualify as “personal information” as it is about an identifiable individual and is personal in nature. The IPC substantiated this in Review Report 147-2020, where the IPC confirmed that “a person’s image is personal information”. The Guide also confirms that subsection 28(1) is a mandatory exemption that “requires a local authority to have the consent of the individual whose personal information is in the record prior to disclosing it.

[47] The following is an analysis of portions 5 and 9 to determine if they contain personal information as defined by subsection 23(1) of LA FOIP.

***a. Portion 5 – 12:32 to 12:43***

[48] Portion 5 is footage of a conversation between the Applicant, the Applicant’s family member, and police officers. SPS released the audio portion to the Applicant but redacted the image of the Applicant’s family member from the video.

[49] In its submission, SPS referenced OIPC’s [Review Report 147-2020](#) where OIPC had found a person’s image qualifies as “personal information” as defined by subsection 24(1) of

(FOIP) (which is the equivalent of subsection 23(1) of LA FOIP). OIPC will make a similar finding in this case. That is, OIPC will find that the image of the Applicant's family member is the family member's personal information pursuant to subsection 23(1) of LA FOIP. There will be a recommendation that SPS continue to withhold portion 5 of the record at issue pursuant to subsection 28(1) of LA FOIP.

***b. Portion 9 – 16:13 to 19:12***

[50] Portion 9 is footage of a conversation between two family members of the Applicant, a hospice employee and two police officers. The conversation is happening inside the vestibule or entrance of the hospice. SPS redacted the image of one of the Applicant's family members and the hospice employee from the video but released the audio of the conversation to the Applicant.

[51] In its submission, SPS noted that it received the consent of one of the family members to release their information related to this matter. As such, SPS released that particular family member's image in the video to the Applicant but not the image of the second family member.

[52] In past reports, OIPC found that the images of individuals in their personal capacities qualifies as personal information as defined by subsection 23(1) of LA FOIP.<sup>4</sup> Consistent with previous findings, there will be a finding that the image of the Applicant's second family in the video qualifies as personal information as defined by subsection 23(1) of LA FOIP. There will be a finding that SPS properly applied subsection 28(1) of LA FOIP to portion 9 of the record at issue because the family member did not grant consent for their personal information to be released. There will be a recommendation that SPS continue to withhold the video (or image) of the Applicant's family member in portion 9 of the record at issue pursuant to subsection 28(1) of LA FOIP.

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<sup>4</sup> See OIPC [Review Report 023-2019, 098-2019](#) at paragraphs [73] to [75]; OIPC [Review Report 147-2020](#) at paragraphs [37] to [38];

[53] With regard to the hospice employee, the SPS identified them as a nurse and said the following:

In [Order MO-4644](#), Adjudicator Marian Sami noted the following:

[27] Some of the affected parties are the marine business owner and employees. Despite any identification of them in a professional capacity in the police report, the *fact of* these parties having interactions with the police and/or being subject to a police investigation is itself “recorded information” about them. In my view, this information reveals something of a personal nature about these individuals, which causes it to cross over from professional information into the realm of “personal information”.  
[Emphasis in original]

Section 23 of LA FOIP provides a non-exhaustive list of information that is considered personal information under the Act, as well as what is not considered personal information. Of relevance:

23(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:

...

(a) information that relates to the **race**, creed, religion, **colour**, **sex**, sexual orientation, family status or marital status, disability, age, nationality, ancestry or place of origin of the individual;

(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;

[Emphasis added]

Subsection 23(2) is clear that the fact an individual is employed by a public body is not personal in nature. However, the SPS argues that the image of the nurse captured by the BWC recording would reveal something personal about them, and could lead the viewer to infer personal information about them, such as their race, colour, or sex, as highlighted above.

While Saskatchewan’s legislation does not include the same wording of “unreasonable invasion of privacy” as it relates to information collected for the purpose of a law enforcement matter, it is reasonable to believe that dealing with police does not fall within the job duties of anyone who works outside of the justice system, nor would it be a requirement for the nurse as part of their duties to provide a statement to police. This would be voluntary, which would cause the nurse’s actions to cross over from the professional realm to the personal one.

[54] In past reports, OIPC has found that images of individuals working in their professional capacities do not qualify as personal information.<sup>5</sup> However, OIPC takes SPS' point that interacting with police is not within the normal course of job duties for a nurse. Therefore, consistent with the finding of Ontario Office of the Information and Privacy Commissioner in its [Order MO-4644](#) at paragraph [27], there will be a finding that the nurses' image while interacting with police in this case qualifies as personal information as defined by subsection 23(1) of LA FOIP. There will be a recommendation that the SPS continue to withhold the image of the nurse in portion 9 of the record at issue.

#### **IV FINDINGS**

[55] OIPC has jurisdiction to conduct this review.

[56] SPS properly applied subsection 14(1)(k) of LA FOIP to portions 1, 3, 7 and 11 of the record at issue.

[57] SPS properly applied subsection 28(1) of LA FOIP to portions 5 and 9 of the record at issue to refuse access to the image of the Applicant's family member.

[58] SPS properly applied subsection 28(1) to the image of the hospice employee in portion 9 of the record at issue.

#### **V RECOMMENDATIONS**

[59] I recommend that SPS continue to withhold portions 1, 3, 7 and 11 of the record at issue pursuant to subsection 14(1)(k) of LA FOIP.

[60] I recommend that SPS continue to withhold portion 5 of the record at issue pursuant to subsection 28(1) of LA FOIP.

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<sup>5</sup> See OIPC [Review Report 005-2025](#) at paragraph [35]; See OIPC [Review Report 268-2021](#) at paragraphs [13] to [14].

[61] I recommend that SPS continue to withhold the video (or image) of the Applicant's family member and the hospice employee in portion 9 of the record at issue.

Dated at Regina, in the Province of Saskatchewan, this 11<sup>th</sup> day of June, 2025.

Grace Hession David  
Saskatchewan Information and Privacy Commissioner