



Office of the
Saskatchewan Information
and Privacy Commissioner

REVIEW REPORT 094-2023

Saskatoon Police Service

May 29, 2023

Summary: Saskatoon Police Service (SPS) received an access to information request from the Applicant. SPS advised the Applicant that it was applying a 30-day extension pursuant to section 12 of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP). The Commissioner found that SPS did not comply with sections 7 and 12 of LA FOIP. The Commissioner recommended SPS release any responsive records, subject to any exemptions found to apply, and issue its section 7 decision within 30 days of the issuance of this Report.

I BACKGROUND

[1] On February 3, 2023, the Saskatoon Police Service (SPS) received an access to information request from the Applicant for the following:

- 1) All records relating to me between April 2019 and the day this request is processed. My D.O.B. is [Applicant's date of birth] and my birth name was [Applicant's full name] prior to 2016.
- 2) Records relating to disciplinary action of Sgt. [name of Sergeant].
- 3) Records relating to any person's report of street poster activity in Saskatoon in 2017-2019 which relate to me or an unknown person.
- 4) Audio recording of a phone call by [name of individual] to 911 or SPS on or about May 15, 2018.
- 5) Audio recording of a phone call by [name of individual] (sp?) to 911 or SPS on or about June 26, 2018.

- [2] On February 27, 2023, SPS responded to the Applicant advising it was extending the response period an additional 30 days pursuant to subsection 12(1)(b) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP).
- [3] On April 8, 2023, the Applicant requested a review by my office indicating that they had not received a response to their request in more than 60 days.
- [4] On April 10, 2023, my office emailed SPS to request an update on when it would provide its response to the Applicant. The next day, SPS responded that it could not meet the legislated timeline because of the volume of records it needed to go through.
- [5] On April 20, 2023, my office notified SPS and the Applicant that a review of SPS' decision not to respond to the access request within the required timelines.

II RECORDS AT ISSUE

- [6] This is a review of whether SPS met the required timelines to respond to the Applicant. Therefore, there are no records at issue in this review.

III DISCUSSION OF THE ISSUES

1. Do I have jurisdiction?

- [7] SPS qualifies as a "local authority" pursuant to subsection 2(f)(viii.1) of LA FOIP. Therefore, I have jurisdiction to undertake this review.

2. Did SPS respond comply with sections 7 and 12 of LA FOIP?

- [8] Section 5 of LA FOIP provides as follows:

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

[9] Section 7 of LA FOIP provides:

7(1) Where an application is made pursuant to this Act for access to a record, the head of the local authority to which the application is made shall:

(a) consider the application and give written notice to the applicant of the head's decision with respect to the application in accordance with subsection (2); or
...

(2) The head shall give written notice to the applicant within 30 days after the application is made:
...

(5) A head who fails to give notice pursuant to subsection (2) is deemed to have given notice, on the last day of the period set out in that subsection, of a decision to refuse to give access to the record.

[10] Subsections 7(2)(a) to (g) of LA FOIP list the ways in which a local authority can respond to an access to information request. If a limited circumstance exists, the head can extend the response time up to an additional 30 days. Those limited circumstances are listed at subsection 12(1) of LA FOIP. However, where a head is going to extend the response time, notice must be given to the applicant within the initial 30 days to respond.

[11] Within the first 30 days, SPS advised the Applicant that it would be extending its response period. SPS indicated in its correspondence to the Applicant that the extension was being applied pursuant to subsection 12(1)(b) of LA FOIP. The letter quoted both subsections 12(1)(a)(i) and 12(1)(b) of LA FOIP. Section 12 of LA FOIP provides:

12(1) The head of a local authority may extend the period set out in section 7 or 11 for a reasonable period not exceeding 30 days:

(a) where:

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

(b) where consultations that are necessary to comply with the application cannot reasonably be completed within the original period; or

...

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

(3) Within the period of extension, the head shall give written notice to the applicant in accordance with section 7.

[12] My office's [Review Report 297-2021](#) provides the following regarding the calculation of time:

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

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

[13] The Applicant's request was received by SPS on February 3, 2023, and SPS advised of its extension on February 27, 2023, which was in compliance with subsection 12(2) of LA FOIP.

[14] The original due date for the section 7 of LA FOIP decision would have been March 5, 2023. As SPS applied a 30-day extension, the due date for its response would have been April 4, 2023. By April 11, 2023, SPS had not responded to the Applicant, and so was not in compliance with subsection 12(3) of LA FOIP. When a response is not provided by the due date, my office refers to this as a deemed refusal. As of the date of the issuance of this report, a section 7 decision has not been issued and SPS advised "this request is still being actively worked on."

[15] I find, therefore, SPS did not comply with sections 7 and 12 of LA FOIP.

[16] I recommend SPS complete processing the Applicant's request and release any responsive records, subject to exemptions found to apply, along with its section 7 decision within 30 days of the issuance of this Report.

IV FINDINGS

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

[18] I find that SPS did not comply with sections 7 and 12 of LA FOIP.

V RECOMMENDATION

[19] I recommend SPS complete processing the Applicant's request and release any responsive records, subject to exemptions found to apply, along with its section 7 decision within 30 days of the issuance of this Report.

Dated at Regina, in the Province of Saskatchewan, this 29th day of May, 2023.

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