



Office of the
Saskatchewan Information
and Privacy Commissioner

REVIEW REPORT 128-2025

City of Melville

January 6, 2026

Summary:

The Applicant submitted an access to information request to the City of Melville (City) for information related to the engagement of a legal firm by the City and records related to an incident that occurred after a City council meeting.

The City provided the Applicant with access to some records, yet it withheld other records in full pursuant to sections 14(1)(d) (injurious to the local authority in the conduct of existing or anticipated legal proceedings), 21(b) (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), and 21(c) (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) 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 (OIPC).

The Commissioner found that the City substantiated that it conducted a reasonable search. The Commissioner found that the City properly applied section 21(b) of *LA FOIP* to the records.

The Commissioner recommended that the City: (1) take no further action regarding the search for records; and (2) continue to withhold the records under section 21(b) of *LA FOIP*.

I BACKGROUND

[1] On May 13, 2025, the Applicant submitted the following access to information request to the City of Melville (City) for the date range of January 1, 2024 to May 13, 2025:¹

1. Copy of council resolution: to void order to remedy [number redacted].
2. Copy of council resolution: approving [address redacted] as a natural garden as long as it complies with future bylaws.
3. Addresses of “four other OTR’s on the same block during the course of 2024” #7 of reply of defendant.
4. Copy of contract with [name of law firm] to defend civil claim 13/25.
5. All records, written or electronic, concerning [a descriptive statement from the defendant’s pleadings].

[2] On May 29, 2025, the City provided a section 7 decision letter to the Applicant. The City released to the Applicant the first and second items, in full. In the same correspondence, the City informed the Applicant that it withheld, in full, the remaining three items from the access to information request under *The Local Authority Freedom of Information and Protection of Privacy Act (LA FOIP)*.² In that correspondence, the City failed to identify the specific provisions of *LA FOIP* that justified the withholding of the three items.

[3] On June 5, 2025, the Applicant requested a review by the Office of the Saskatchewan Information and Privacy Commissioner (OIPC) regarding the decision of the City to withhold, in full, the remaining items. On July 24, 2025, the Applicant informed OIPC that they no longer wished for a review of the third item from the access to information request. As a result, two items remained at issue, hereafter referred to as Item 4 (a copy of a contract between the City and a law firm regarding a small claims court case) and Item 5 (all records, written or electronic, concerning a statement from the defendant City’s pleadings).

¹ The use of square brackets in this Report are amendments to quotes by OIPC to preserve the identity of the Applicant and City employees.

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

- [4] OIPC contacted the City via telephone on August 7, 2025, to clarify what exemptions it was applying to Items 4 and 5. On August 8, 2025, the City confirmed that it denied access to Items 4 and 5, in full, under the exemptions contained within sections 14(1)(d), 21(b), 21(c), and 28(1) of *LA FOIP*. At that time, the City informed OIPC that it would not reconsider any of the exemptions it applied.
- [5] On August 28, 2025, OIPC notified the City and the Applicant that a review would be commenced of the decision by the City to withhold Items 4 and 5. OIPC requested that the City provide an unredacted copy of the records and an index of records by September 29, 2025. Both the City and the Applicant were invited to provide submissions by October 27, 2025.
- [6] On September 29, 2025, the City provided an index of records and unredacted records. On September 30, 2025, OIPC initiated contact with the City to clarify what was provided, resulting in the provision of an updated index of records on October 6, 2025.
- [7] On October 9, 2025, OIPC confirmed that the City withdrew reliance on section 28(1) of *LA FOIP*. The City also indicated that it intended to release, in full, to the Applicant a record responsive to Item 5.
- [8] On October 14, 2025, the City provided a further updated index of records and consent to share with the Applicant on the same day. On October 15, 2025, the Applicant indicated that they were not satisfied and still wished to proceed with a review.
- [9] By October 28, 2025, both the City and the Applicant provided submissions to OIPC. The City provided a supplemental submission on November 2, 2025.
- [10] On November 14, 2025, OIPC contacted the City to clarify whether a record responsive to Item 5 (that the City indicated in the index of records and submission was withheld, in full) was previously provided to the Applicant as part of a small claims court case.

- [11] On November 17, 2025, the City confirmed that the record had, in fact, been provided to the Applicant. Subsequently, the City withdrew reliance on all exemptions for that record. On the same date, OIPC confirmed that the subject of this Report would solely focus on three records, consisting of five pages related to Items 4 and 5.

II RECORDS AT ISSUE

- [12] Early and informal resolution efforts by this office have resulted in only three records being at-issue: that is, five pages, withheld in full, responsive to Items 4 and 5 of the Applicant's access to information request. The records are outlined below:

- Record 1: two pages containing an email thread between the City Manager, City Clerk, and legal counsel, dated from May 13 to May 20, 2025.
- Record 2: two pages containing an email thread between the City Manager, City Clerk, and legal counsel, dated April 29, 2025.
- Record 3: one page containing an email message between the City Manager, City Clerk, and legal counsel, dated April 30, 2025.

- [13] The Applicant also raised concerns that the City did not conduct a reasonable search. As such, this Report will also address the search efforts on the part of the City.

III DISCUSSION OF THE ISSUES

1. Jurisdiction

- [14] The City qualifies as a "local authority" under section 2(1)(f)(i) of *LA FOIP*. Therefore, OIPC has jurisdiction to complete a review of this matter under PART VI of *LA FOIP*.

2. Did the City conduct a reasonable search for records?

[15] This review of search efforts was initiated because the Applicant requested access to two records that the City indicated did not exist, relying upon section 7(2)(e) of *LA FOIP*. Specifically, the Applicant requested:

- A copy of a contract with the legal counsel for the City as it would pertain to a small claims court case (Item 4); and
- All records, written or electronic, concerning a statement provided by legal counsel for the City, chiefly a recording (Item 5).

[16] Section 5 of *LA FOIP* provides an applicant with a right of access to records in the possession of a local authority. Section 5 of *LA FOIP* states:

Right of access

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.

[17] OIPC has historically established two circumstances where a local authority can validly claim the non-existence of a record under *LA FOIP*.³ The second circumstance is relevant to this case: that is, the City claims that a reasonable search failed to produce records. To validate this claim, the City must provide convincing submissions that a reasonable search was conducted.

[18] A “reasonable search” is one where an employee, experienced in the subject matter, expends a reasonable effort to locate records that are reasonably related to the request. A “reasonable effort” is the level of effort one would expect of any fair, sensible person searching areas where records are likely to be stored. What is reasonable depends on the request, itself, and related circumstances.⁴

³ OIPC [Review Report 077-2025](#) at paragraphs [15] and [16].

⁴ OIPC [Review Report 275-2024](#) at paragraph [13].

[19] A local authority may resort to the following avenues to substantiate a reasonable search for records:⁵

- For personal information requests – provide an explanation as to how the individual who is the subject of the personal information is involved with the local authority (i.e., client, employee, former employee, etc.) and why certain departments/divisions/branches were included in the search.
- For general requests – tie the subject matter of the request to the departments/divisions/branches included in the search. In other words, explain why certain areas were searched and not others.
- Identify the employee(s) involved in the search and explain how the employee(s) is experienced in the subject matter and would have the requisite knowledge to carry out the search.
- Explain how the records management system is organized (both paper & electronic) in the departments/divisions/branches included in the search.
- Describe how records are classified within the records management system. For example, not whether the records classified by alphabet, year, function, subject. Explain which folders within the records management system were searched and how these folders link back to the subject matter. For electronic folders – indicate what key terms were used to search if applicable.
- Provide a copy of the record schedule for the local authority and screen shots of the electronic directory (folders & subfolders).
- If the record has been destroyed, provide a copy of the record schedule and/or destruction certificate.
- Explain whether records stored off-site were searched and if not, explain why.
- Explain whether records in the control of the local authority as well as the possession of a third party were searched and how. Third parties in this instance may include: a contractor or an information management service provider.
- Explain whether mobile electronic devices were required to be searched and how (i.e., laptops, smart phones, cell phones, tablets).

⁵ The above list is meant to be a guide. Each case will require different search strategies and details depending on the records requested.

- Indicate the calendar dates of each search.
- Indicate the length of the search.
- Indicate the results of each search if more than one search was conducted.
- Consider having the details above affirmed or sworn by an employee in an affidavit.

[20] The Applicant asserted the following with respect to Item 4 (a copy of a contract between the City and a law firm regarding a small claims court case):

The City is spending thousands of dollars on legal fees, with significant ongoing administrative costs, to defend a straight-forward damages claim that could have been settled ... Instead, they are paying a law firm, not in Melville, or nearby Yorkton, but in Saskatoon. ... Property taxpayers, me included, have a right to know basic information contained in the legal contract, and whether the City is getting value for money. I am not requesting protected information related to case-specific legal strategies, settlement authorities and dollar amounts, or other competitive protected information that can be redacted. Rather, how much is the legal firm charging per hour for various positions in their firm, such as secretarial, a lawyer, or a law firm partner? ...

[21] Regarding Item 5, the Applicant maintained that the pleadings of the City mischaracterized an interaction between themselves and the Mayor and City Manager following a City council meeting. Because City council meetings are recorded, the Applicant requested a copy of the recording in an effort to resolve a dispute about their conduct.

[22] In response to the Applicant's assertions, the City submitted:

[Item 4] There is no formal retainer for the small claims matter, but any retainer agreement would be subject to solicitor-client privilege and would be exempt under s. 21 (b) and s. 14(1)(d) of LA FOIP and therefore could not be disclosed.

[Item 5] This incident occurred immediately following the meeting. Council meetings are recorded but once the Mayor adjourns the meeting, the recording is stopped. Therefore, the video was not being withheld, but rather a recording of the incident following the meeting does not exist.

[23] The City advised that the City Clerk and City Manager were involved in searches for records responsive to Items 4 and 5 of the Applicant's access to information request. The

City also explained that the City Clerk and City Manager searched for both electronic and paper copies relevant to the request.

[24] Regarding Item 4, the City searched staff email accounts for correspondence and digital as well as paper files for any records related to specific search terms provided to this office. The City provided this office with screenshots evidencing that the search terms yielded no results in the email account search and in the digital searches. We accept that there are no responsive records relevant to Item 4 in existence.

[25] Regarding Item 5, on October 15, 2025, the City provided both the Applicant and this office with a copy of the City council meeting recording at issue, at which time OIPC confirmed that there was indeed no footage once the meeting had been adjourned. The Applicant also confirmed the same. It is clear that the City conducted a reasonable search for a recording that captured the contested incident, and none was found because no such recording exists.

[26] There is a finding that the City substantiated that it conducted a reasonable search and a recommendation that the City take no further action regarding the search for records. The records that the City identified as responsive to the Applicant's request will now be considered with a focus on the application of a claim of solicitor client privilege (section 21(b) *LA FOIP*) by the City.

3. Did the City properly apply section 21(b) of *LA FOIP*?

[27] The City withheld five pages of records, in full, pursuant to section 21(b) of *LA FOIP*, which provides:

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;
or

[28] In the submission, the City asserted that the records noted above were the result of the need to seek legal counsel by the City with respect to litigation involving the Applicant.

[29] As a discretionary, class-based exemption, section 21(b) of *LA FOIP* permits refusal of access in situations where a record was prepared by or for legal counsel for a local authority in relation to the provision of advice or services by legal counsel.

[30] OIPC must evaluate whether section 21(b) of *LA FOIP* applies to the records. OIPC uses the following two-part test to determine if section 21(b) of *LA FOIP* applies:⁶

1. Were the records “prepared by or for” legal counsel for a local authority?
2. Were the records prepared in relation to a matter involving the provision of advice or other services by legal counsel?

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

1. Were the records “prepared by or for” legal counsel for a local authority?

[32] OIPC interprets the term “prepared” to mean “to be ready for use or consideration”, whereas the phrase “by or for” means that the person who prepared the record was either a person providing legal advice or services *or* a person engaged on behalf of, or for the use of, the provider of that legal advice or service.⁷ OIPC accepts the following definitions as applicable in this situation:⁸

- “Legal advice” includes a legal opinion about a legal issue, and a recommended course of action, based on legal considerations, regarding a matter with legal implications.
- “Legal service” includes any law-related service performed by a person engaged by a local authority and who is licensed to practice law.

⁶ OIPC [Review Report 101-2024](#) at paragraph [77].

⁷ OIPC [Review Report 024-2024](#) at paragraph [42].

⁸ *Ibid.*

[33] With regards to the substantive content of the email messages themselves, OIPC observed the following:

- Records 1 (pages 1 and 2) and 2 (pages 3 and 4) are both email threads involving the City Manager, City Clerk, and legal counsel for the City.
- Record 3 (page 5) is an email message from legal counsel for the City to the City Manager and City Clerk.

[34] OIPC verified that the City Clerk and City Manager were employees of the City and that the legal counsel engaged in the correspondence were lawyers who are members of the Law Society of Saskatchewan in good standing. Therefore, the first part of the test is met.

2. Were the records prepared in relation to a matter involving the provision of advice or other services by legal counsel?

[35] OIPC understands that the phrase “in relation to” has been found to have a similar meaning as “in respect of,” as previously established in *Nowegijick v. The Queen*:⁹

The words “in respect of” are, in my opinion, words of the widest possible scope. They import such meanings as “in relation to,” “with reference to,” or “in connection with.” The phrase “in respect of” is probably the widest of any expression intended to convey some connection between two related subject-matters.

[36] OIPC observed the following on the face of the record:

- The email thread in Record 1 (pages 1 and 2) and Record 2 (pages 3 and 4) contain content that clearly demonstrate the City Manager requested legal advice from legal counsel for the City, and the provision of that legal advice from legal counsel to the City Manager.
- Record 3 (page 5) contains content that clearly demonstrates the provision of a legal service and the provision of legal advice by legal counsel to the City Manager.

⁹ [*Nowegijick v. The Queen*](#), [1983] 1 SCR 29 at page 39.

[37] The records were clearly prepared in relation to a matter involving the provision of advice or other services by legal counsel to the City. Therefore, the second part of the test is met.

[38] There is a finding that the City properly applied section 21(b) of *LA FOIP* to the records. There will be a recommendation that the City continue to withhold the records under section 21(b) of *LA FOIP*. As a result, there is no need for OIPC to consider the application of the exemptions in sections 14(1)(d) and 21(c) of *LA FOIP*.

IV FINDINGS

[39] OIPC has jurisdiction and is undertaking a review of this matter under PART VI of *LA FOIP*.

[40] The City substantiated that it conducted a reasonable search.

[41] The City properly applied section 21(b) of *LA FOIP* to the records.

V RECOMMENDATIONS

[42] I recommend that the City take no further action regarding the search for records.

[43] I recommend that the City continue to withhold the records under section 21(b) of *LA FOIP*.

Dated at Regina, in the Province of Saskatchewan, this 6th day of January, 2026.

Grace Hession David
Saskatchewan Information and Privacy Commissioner