



REVIEW REPORT 147-2024

Saskatoon Police Service

November 25, 2024

Summary:

The Applicant submitted an access to information request to the Saskatoon Police Service (SPS). In its section 7 decision, SPS indicated it was withholding records in full pursuant to subsections 13(1)(b), (13)(2), 14(1)(b)(ii), (c), (j), (k), 21(b), and 28(1) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP). The Applicant requested a review by the Commissioner. The A/Commissioner found SPS properly applied subsection 14(1)(k) of LA FOIP but failed to meet its obligations under section 8 of LA FOIP due to its blanket application of subsection 14(1)(k) of LA FOIP. It also did not take into account all relevant considerations in its exercise of discretion. The A/Commissioner recommended that, within 60 days of issuance of this Report, SPS reconsider the exercise of discretion and conduct a line-by-line review of the 3,485 pages and provide severed versions to the Applicant. Finally, the A/Commissioner recommended that, within 60 days of issuance of this Report, SPS amend its policies and procedures to require line-by-line review and apply severance to records to ensure it meets its obligations pursuant to section 8 of LA FOIP.

I BACKGROUND

[1] On March 25, 2024, the Applicant submitted an access to information request to the Saskatoon Police Service (SPS) for the following:

This is a freedom of information request for data, records and occurrence reports relating to officers' issuance of violations under Saskatoon Bicycle bylaw, also known as bylaw number 9705; and data, records and occurrence reports related to the demographics of individuals between Jan. 1, 2020 and Dec. 31, 2022. These files have already been released and should not require additional resources to provide them.

[2] In an email dated March 25, 2024, SPS confirmed receipt of the request. In addition, SPS asked the Applicant for additional information:

... In your request, you note that the records you are requesting “have already been released”. Could you please provide further information about that? ...

[3] In multiple email correspondence with SPS on March 26, 2024, the Applicant provided the following additional information to SPS:

My understanding is these records were previously released as part of a court order in June 2023.

It was *R v. Baldhead*, defence lawyer was Chris Murphy and Judge Monar Enweani ordered the records be produced.

Judge Monar Enweani ordered the records to be produced on June 6, 2023 and appeared to be produced by the end of the month.

[4] Later that same day, SPS confirmed via email the receipt of this information.

[5] By way of letter dated April 16, 2024, SPS informed the Applicant it was extending the response time an additional 30 days pursuant to subsections 12(1)(a)(i) and (ii) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP).

[6] In a letter dated May 23, 2024, SPS provided to the Applicant its section 7 decision, denying access to the record in full pursuant to subsections 13(1)(b), 13(2), 14(1)(b)(ii), (c), (j), (k), 21(b), and 28(1) of LA FOIP.

[7] Also on May 23, 2024, the Applicant requested a review by my office of SPS’ section 7 decision.

[8] On May 24, 2024, my office contacted SPS to discuss options for early resolution, assessing its willingness to reconsider any exemptions applied to the record. On May 27, 2024, SPS communicated it declined to reconsider its section 7 decision.

- [9] On May 27, 2024, my office notified SPS and the Applicant by email of my intent to undertake a review. In the notification email to SPS, my office requested SPS provide my office with a copy of the record (with severance applied and with exemptions clearly noted), and an index of records by June 26, 2024. My office also requested a submission from SPS that outlined how the record qualified for the aforementioned exemptions by July 26, 2024. The Applicant was also invited to provide a submission by July 26, 2024.
- [10] On June 4, 2024, the Applicant provided a submission to my office.
- [11] On June 26, 2024, an affidavit sworn by an SPS Access and Privacy Officer was provided to my office, alongside an index of records, without the records themselves. The index of records, described in the affidavit as a Schedule, was 74 pages long and appeared to suggest, the record at issue was in excess of 3000 pages. SPS stated that it claimed “solicitor-client privilege for each record listed in the attached Schedule, pursuant to section 21(b) of LA FOIP,” so SPS was unwilling to provide a copy of the records to my office. My office clarified for SPS that a *prima facie case* could only be made for information or records subject to subsection 21(a) of LA FOIP and, as such, an affidavit was insufficient. Further, no other exemptions could be considered without a copy of the record.
- [12] After still not receiving the records required to conduct this review, on June 27, 2024, my office issued a Notice to Produce to SPS for all pertinent records, pursuant to section 43 of LA FOIP.
- [13] On July 3, 2024, SPS provided the records to my office, with the exception of seven pages withheld by SPS. It asserted the *Youth Criminal Justice Act* (YCJA) prevented it from providing the seven pages to my office. SPS made new references in the submission that previously were not disclosed in the section 7 decision, chiefly:
- a. an intention to declare the doctrine of paramountcy, with respect to the *Youth Criminal Justice Act* (YCJA) in order to withhold seven pages of a particular record from my office, and

b. the withdrawal of previously established reliance on 13(2) of LA FOIP.

[14] On July 26, 2024, SPS provided its submission to my office. The submission addressed the exemptions cited in the section 7 decision and arguments regarding the application of YCJA.

[15] At my office's request, on October 4, 2024, SPS emailed a second sworn affidavit with a more detailed schedule of records in relation to the seven pages it withheld from my office pursuant to provisions of YCJA.

[16] On November 13, 2024, my office emailed the Applicant to ascertain if they would like to proceed with a review of the entire record or if they would be prepared to remove from the review the seven pages withheld from my office pursuant to provisions of YCJA.

[17] On November 14, 2024, the Applicant emailed my office to authorize removing from the review the seven pages withheld pursuant to provisions of YCJA.

II. RECORDS AT ISSUE

[18] SPS identified 3,492 pages of responsive records, withholding them from the Applicant in full. All are "General Occurrence Reports" from May 2018 to October 2022, with the exception of page 1 of both Record 63 and Record 66, which are each identified as a "Table of Contents." Given the Applicant authorized my office to proceed with a review that does not consider the seven pages withheld pursuant to provisions of YCJA, the records at issue are 3,485 pages.

III. DISCUSSION OF THE ISSUES

1. Do I have jurisdiction?

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

2. Were the records at issue made public?

[20] Before analyzing the exemptions applied, I must consider the question of whether the records were made public.

[21] In their submission, the Applicant advanced the argument that the records were made public in a previous court decision, [*Saskatoon Police Service v. Baldhead*, KBG-SA-00763-2023, March 20, 2023]. The Applicant's arguments were as follows:

... provincial court Judge Enweani felt comfortable bringing the documents into the public domain. Likewise, Court of King's bench Justice Bardai ruled to allow Murphy to speak about the documents; he felt comfortable with information from the records being made public.

[22] In its submission, SPS addressed the issue of the records being publicly available as a result of the court proceeding as follows:

...Mr. Baldhead was stopped by two SPS Constables on June 28, 2021 due to infractions of *Bylaw No. 9705 – Bicycle Bylaw, 2020* (the "Bylaw") and resulting from that stop, Mr. Baldhead was criminally charged with multiple offences. During the criminal prosecution of Mr. Baldhead, his counsel brought an *O'Connor* application for SPS records, specifically notices of violations or warnings given by the two arresting Constables pursuant to the Bylaw (or its predecessor) and demographics information related to notices of violations and warnings pursuant to the Bylaw (or its predecessor) by any SPS officers between January 1, 2020 and December 31, 2022. These records totaled 3,492 pages.

...Any disclosure provided pursuant to an *O'Connor* application is to enable an accused to make full answer and defence and for no other purpose. This also aligns with the implied undertaking rule, which does not allow the use of disclosure from one proceeding to be used in another...

The first stage of Mr. Baldhead's *O'Connor* application was heard on May 3, 2023. On May 24, 2023, Judge Monar Enweani provided her decision on the first stage of the application and as a result, the SPS records sought were provided ***under seal*** to the Provincial Court of Saskatchewan **for Judge Monar Enweani's review only**. As such, they were not accessible to the public, the accused nor Defence or Crown counsel.

The second stage of the *O'Connor* application was argued before Judge Monar Enweani on May 29, 2023. On June 6, 2023, she made an order that resulted in Mr.

Baldhead's counsel and the Crown receiving the documentation provided by the SPS to the Court, with significant conditions. Judge Enweani's Order read as follows:

I order production of the records to Defence counsel and to Crown counsel, on the following conditions:

- ...
- **The records are not to be distributed or made public and there shall be no disclosure of the contents of the records without prior approval of the Court.**
- ...

Again, the records were kept under seal on the Court file and not made public. Defence Counsel and the Crown were also unable to share the records, with Defence Counsel not even being allowed to share the records with his client...

[Emphasis in original]

[23] Based on the order quoted above, I find the records at issue in this case were not made publicly available.

[24] Next, I will consider the application of subsection 14(1)(k) of LA FOIP to the records.

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

[25] SPS applied subsection 14(1)(k) of LA FOIP to the remainder of the record (3,485 pages), comprised almost wholly of General Occurrence Reports. The exceptions include page 1 of both Record 63 and Record 66, which are each identified as a Table of Contents.

[26] Subsection 14(1)(k) of LA FOIP provides:

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

[27] My office uses the following two-part test when determining 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 release disclose information with respect to a law enforcement matter?
 - b. Could release of information interfere with a law enforcement matter?

[28] I will now consider each part of the test.

1. Is there a law enforcement matter involved?

[29] My office's *Guide to LA FOIP*, Chapter 4, "Exemptions from the Right of Access," updated October 18, 2023 (*Guide to LA FOIP*, Ch. 4), defines the following terms at pages 76 and 77:

- "Law enforcement" includes:
 - policing, which is defined as the activities of police services carried out under the authority of a statute regarding the maintenance of public order, detection and prevention of crime or the enforcement of law.
 - investigations, inspections or proceedings conducted under the authority of, or for the purpose of, enforcing an enactment which led to or could lead to a penalty or sanction being imposed under the enactment.

[30] In their submission to my office, the Applicant did not provide any arguments specific to subsection 14(1)(k) of LA FOIP. However, they did provide other arguments which I will address later in this Report.

[31] In its submission to my office, SPS asserted:

Among the police powers of investigation and enforcement, section 36(2) of *The Police Act, 1990*, provide the SPS with the authority to conduct lawful investigations and enforce respective laws:

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;

In relation to subsection 14(1)(k), the exemption was applied to the entirety of the records, as the records were created in response to a violation of City of Saskatoon bylaw #9705 (#6884 prior to 2020) and/or the *Criminal Code* and the *Controlled Drugs and Substances Act* (“CDSA”), and included information surrounding tickets issued under the bylaw, warnings given, and criminal charges laid following police interaction with a member of the public who had committed the bylaw offence. Therefore, the SPS submits that a law enforcement matter was involved.

[Emphasis in original]

[32] Based on a review of the records at issue, the General Occurrence Reports appear to document activities carried out under the authority of statutes and bylaws. These include the detection and prevention of bylaw infractions and the systematic process of examining crimes. Every record clearly identifies Notice of Violation tickets, with handwritten notes by presiding officers, as part of the enforcement of City of Saskatoon Bylaw #9705.

[33] For example, in Records 8, 10, 14, and 20, Notice of Violation tickets have been issued pursuant to subsection 7 of City of Saskatoon Bylaw #9705, which provides:

7. No person shall operate a bicycle from one-half hour after sunset to one-half hour before sunrise, or at any other time when conditions of poor visibility exist, unless the bicycle is equipped with and displays:

(a) an operating headlight; and

(b) either:

(i) an operating red rear light; or

(ii) a red rear reflector.

[34] To further illustrate, Records 2, 4, 8, 10, 11, 20, 53, and 54 all feature Notice of Violation tickets issued pursuant to section 8 of City of Saskatoon Bylaw #9705, which provides:

8. No person over the age of 13 shall operate a bicycle on a sidewalk unless:

(a) the sidewalk is designated as a shared-use path by a traffic sign; or

(b) the person is temporarily crossing the sidewalk for the purpose of entering or exiting adjacent land.

[35] While most General Occurrence Reports in the record identify bicycle bylaw infractions, on the face of the record, there are also references to additional statutes. For example:

- The *Criminal Code of Canada (Criminal Code)* is cited in Record 4, pages 1 to 23, which document outstanding warrants, pursuant to section 733.1(1) of the *Criminal Code*. Also, Record 53, pages 21 to 26, documents assault charges, pursuant to section 266 of the *Criminal Code*.
- The *Firearms Act* is cited in Record 8, pages 1 to 77, which document concealed weapons charges, pursuant to section 117 of the *Firearms Act*, as well as section 88(1) of the *Criminal Code*.
- The *Controlled Drugs and Substances Act (CDSA)* is cited in Record 8, pages 26, 30, and 32, which document drug-related offences, pursuant to section 4(1) of the CDSA.

[36] The General Occurrence Reports appear to document law enforcement matters: specifically, police services carried out under the authority of City of Saskatoon bylaws, the *Criminal Code*, CDSA, and the *Firearms Act*.

[37] As such, the first part of the test is met.

2. Does one of the following exist?

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

b. Could release disclose information with respect to a law enforcement matter?

[38] In its submission to my office, SPS asserted:

Release of the records would disclose information about SPS activities towards enforcing city bylaws, the *Criminal Code*, and the CDSA.

[39] Although SPS has indicated release “would” disclose, the threshold is “could”. Section 14 of LA FOIP uses the word could versus “could reasonably be expected to” as seen in other provisions of LA FOIP. The threshold for could is somewhat lower than a reasonable expectation. The requirement for could is simply that the release of the information *could have* the specified result. There would still have to be a basis for asserting the outcome could occur. If it is fanciful or exceedingly remote, the exemption should not be invoked. (*Guide to LA FOIP*, Ch. 4, pp. 52-53).

[40] My office’s [Review Report 157-2019](#) provides further guidance on this portion of the exemption as follows:

[14] To meet this part of the test, it is only necessary for the local authority to demonstrate that the information in the record is information **with respect to a law enforcement matter**.

[Emphasis added]

[41] “With respect to” 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 (*Guide to LA FOIP*, Ch. 4, p. 79).

[42] Based on a review of the records at issue, the General Occurrence Reports detail interactions between individuals and SPS that “could” disclose information with respect to a law enforcement matter. This situation is similar to my office’s [Review Report 023-2019](#), [098-2019](#), where SPS made similar arguments about General Occurrence Reports and City of Saskatoon bylaws, *Criminal Code* and the *Firearms Act*. At paragraph [100] of that Report, I found that release of the General Occurrence Reports could disclose activities undertaken by SPS’ members to enforce these Acts and bylaws and as such, subsection 14(1)(k) of LA FOIP applies. In the case before me, the General Occurrence Reports document processes by which SPS officers investigate, initiate arrests of, detain, and file

charges against offenders pursuant to City of Saskatoon bylaws, the *Criminal Code*, the *Firearms Act*, and the CDSA.

[43] As such, I find the second part of the test is met. As both parts of the test are met, I find SPS appropriately applied subsection 14(1)(k) of LA FOIP to information in the records at issue.

[44] As I have found subsection 14(1)(k) of LA FOIP was properly applied to information in the records at issue, I do not need to consider SPS' application of subsections 13(1)(b), 13(2), 14(1)(b)(ii), 14(1)(c), (j), (k), 21(b), and 28(1) of LA FOIP to the records.

[45] Normally, at this stage, given my finding regarding subsection 14(1)(k) of LA FOIP, I would recommend the records be withheld, however, I will be considering SPS' exercise of discretion and compliance with section 8 of LA FOIP next.

4. Did SPS properly exercise its discretion and comply with section 8 of LA FOIP?

[46] When applying any discretionary exemption, the local authority must first determine if the circumstances meet the test, as discussed above. The head then should exercise their discretion and decide whether to withhold records pursuant to a discretionary exemption or to instead release them even if it believes the exemption applies.

[47] As established in my office's [Review Report 135-2019](#) at paragraphs [28] and [29]:

[28] The Supreme Court of Canada ruling in *Ontario (Public Safety and Security) v. Criminal Lawyers' Association*, 2010 SCC 23, [2010] 1 S.C.R. 815, **confirmed the authority of the Information and Privacy Commissioner of Ontario to quash a decision not to disclose information pursuant to a discretionary exemption** and to return the matter for reconsideration by the head of a public body.

[29] The Supreme Court, in the same decision, also considered the following factors to be relevant to the review of discretion:

- 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.**

[30] During a review of a discretionary exemption, I may recommend that the head of local authority **reconsider its exercise of discretion if I feel that one of these factors played a part in the original decision to withhold information**, or if not exercised at all. However, I will not substitute my discretion for that of the head.

[Emphasis added]

[48] In this case, the only factor noted above that I see a need to explore is if SPS's decision failed to take into account relevant considerations.

[49] In this regard, my office's *Guide to LA FOIP*, Ch. 4 at page 12, summarizes some additional factors (considerations) that should be taken into account when exercising discretion:

- the general purposes of the Act (i.e. public bodies should make information available to the public, and individuals should have access to personal information about themselves);
- the wording of the discretionary exception and the interests which the exception 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 public body 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 public body;
- **whether the disclosure of the information will increase public confidence in the operation of the public body;**
- the age of the record;
- whether there is a definite and compelling need to release the record; and
- whether Commissioner's Orders have ruled that similar types of records or information should or should not be disclosed.

[Emphasis added]

[50] Of particular note, SPS has regularly applied severances to General Occurrence Reports in the past. For example, consider [Review Report 039-2023](#) at paragraph [5], [Review Report 054-2022, 072-2022](#) at paragraph [6], and [Review Report 023-2019, 098-2019](#) at paragraph [9]. Each of these recent reports documents SPS' decision to release to previous applicants portions of General Occurrence Reports to which subsection 14(1)(k) of LA FOIP was applied. The fact SPS has chosen, in this case, to not apply severances is actually a deviation from its historical practices.

[51] In addition, the Applicant has clearly indicated that they are not interested in identifying information about individuals who are not the Applicant, so it is possible to de-identify these records and provide severed versions to the Applicant.

[52] Another basis for discretionary release is the role of public interest, which I will consider next.

[53] In their submission, the Applicant raised the argument that release would be in the public interest when they asserted:

The data and reports about arresting officers' issuance of violations under the Saskatoon Bicycle Bylaw are clearly in the public interest and should be released. As quoted in CBC journalist Dan Zakreski's story, defence lawyer Chris Murphy says Saskatoon Police "records appear to suggest that the vast majority of people who are ticketed under the bylaw are Indigenous and the tickets are primarily issued in the Central District [downtown]."

...

In addressing the final issue brought forward by police — that the records would disclose personal information of individuals other than [myself] — I believe the statistics and records are important, but not the identity of those in the records. ... I do not wish to identify the people who may be included in the records. I wish to understand if Bardai's suggestion that Saskatoon Police could be racially profiling Indigenous people is substantiated. That is important to the Saskatoon public.

[54] As there is no public interest override attached to subsection 14(1)(k) of LA FOIP, it is not something I can consider in terms of the application of this provision. I note, LA FOIP also does not have a general public interest override like other similar Acts in other jurisdictions.

I have previously addressed this in my reports, most recently at paragraph [51] of [Review Report 314-2023](#):

[51] As I said in [Review Report 317-2023](#), Saskatchewan's *The Freedom of Information and Protection of Privacy Act* (FOIP) does not have an equivalent of BC FOIPPA's subsection 25(1). That means there is no general public interest override. **Similarly, LA FOIP does not have a general public interest override either.**

[Emphasis added]

[55] Similar to my office's [Review Report 314-2023](#), the Applicant's point that there is a public interest in this information is well-taken. The public deserves transparency and accountability around issues of potential systemic problems related to SPS' enforcement of City of Saskatoon bylaws.

[56] I will now consider whether, in its blanket application of subsection 14(1)(k) of FOIP, SPS considered its obligations under section 8 of LA FOIP.

[57] SPS withheld the entirety of 3,485 pages from the Applicant, citing various exemptions of LA FOIP. There was no indication SPS attempted to sever the record. It does not appear SPS considered its obligations under section 8 of LA FOIP.

[58] Section 8 of LA FOIP provides:

8 Where a record contains information to which an applicant is refused access, the head shall give access to as much of the record as can reasonably be severed without disclosing the information to which the applicant is refused.

[59] Once it has been established that exemptions apply, in order to comply with section 8 of LA FOIP, a line-by-line analysis of the record at issue is required to determine which exemptions apply to which portions of a record. The local authority is required to sever those portions that may qualify for a mandatory or discretionary exemption and release the balance of the record to an applicant.

[60] In this regard, an important consideration is whether the degree of effort to sever the record is proportionate to the quality of information remaining in the record. On the matter of reasonable severability, my office's *Guide to LA FOIP*, Ch. 3, references *SNC-Lavalin Inc. v. Canada (Minister of Public Works)*, (1994), the court held that:

...disconnected snippets of releasable information taken from otherwise exempt passages are not...reasonably severable and severance of exempt and non-exempt portions should be attempted only when the result is a reasonable fulfillment of the purposes of the Act. The process of reaching the conclusion that information is not severable is one which should be approached with caution. It is not an issue of "what purpose is to be served by disclosure" so much as an issue of "whether there is any information which is reasonably being conveyed by the exercise of severance. If there are more than disconnected snippets being disclosed, the information can be considered severable" (p. 68).

[61] In its submission to my office, SPS asserted:

The SPS understands that it has a duty to assist as per section 8 of LA FOIP, however police records contain exceptionally sensitive information, and are compiled as part of law enforcement activities; in this case enforcement of City of Saskatoon bylaws, the CDSA, and the *Criminal Code*. It has been consistently found by the Courts and Information and Privacy Commissioners across the country that a public interest in disclosure is not automatically established where the applicant is a member of the media.

In *Hande v University of Saskatchewan*, (2019), Justice Gabrielson describes the balancing act of access to information and protection of privacy as follows:

[15] As can be seen, the Act attempts to strike a balance between the public's right to access information which the Government of Saskatchewan (or a body holding delegated authority from the government) has to ensure accountability to persons affected by the information and the corresponding need to protect the privacy of individuals or other legitimate interests that may be impacted by the release of such material. It starts with the proposition that a person has access to all government records subject to limitations established by the Act. The limitations are set out in Part III of the Act which is entitled "Exemptions". The exemptions define circumstances under which the head of a government or a local authority is required to refuse access to information contained in a record. Part IV of the Act, which is entitled "Protection of Privacy" deals with balancing the right of access to information with the protection of the interests of the individual in their own personal information.

... the records provided to the Court for the *O'Connor* application were not made public, were not entered onto the record as evidence, and have since been returned to

the SPS. Therefore, the consideration in disclosure in the public interest rests on balancing privacy and the consideration that the records were compiled by SPS legal counsel for the purpose of responding to the *O'Connor* application.

[62] Upon a review of the records at issue, I find SPS has not met its obligations under section 8 of LA FOIP. Instead, as indicated earlier, SPS has taken a blanket approach to withholding the record. For example, just in Record 1, in addition to SPS' standard General Occurrence Report header information,

- Page 1 - could be released in full, as there is no identifying personal information, only summary information and Canadian Centre for Justice statistics;
- Page 2 - could be redacted to sever the accused's name, booking photo, birthdate, contact information, demographic information, and associates;
- Page 3 - could be released in full, as it is an otherwise blank page under a heading;
- Page 4 - could be redacted to sever the accused's name, phone number, and birthdate;
- Page 5 - could be redacted to sever the accused's name, bicycle description, and workplace; and
- Page 6 - could be released in full, as it is a blank page with a single standard phrase in the centre of the page.

[63] This is consistent with my office's findings in [Review Report 239-2023](#), which also involved the SPS:

[9] When a local authority receives an access to information request, it must complete a line by-line analysis of the responsive records to comply with section 8 of LA FOIP. Through this analysis, the local authority is required to determine where a mandatory or discretionary exemption applies and sever those specific portions of the records. Then, it is to release the remainder of the record to the Applicant.

[10] With the exception of three records at issue ... it took a blanket approach to withholding the records at issue. In other words, instead of conducting a line-by-line review of each record to apply exemptions to only portions of the records, [SPS] withheld records in full. This approach does not comply with section 8 of LA FOIP.

[11] The rule is exceptions to the right of access should be limited and specific. This is supported by a number of Supreme Court of Canada and Federal Court of Appeal

decisions. In addition, the Saskatchewan Court of Appeal also took a similar approach in *General Motors Acceptance Corp. of Canada v. Saskatchewan Government Insurance* (1993) which provides at paragraph [11]:

The Act's basic purpose reflects a general philosophy of full disclosure unless information is exempted under clearly delineated statutory language. There are specific exemptions from disclosure set forth in the Act, but these limited exemptions do not obscure the basic policy that disclosure, not secrecy, is the dominant objective of the Act. That is not to say that statutory exemptions are of little or no significance. We recognize that they are intended to have a meaningful reach and application. The Act provides for specific exemptions to take care of potential abuses. There are legitimate privacy interests that could be harmed by release of certain types of information. Accordingly, specific exemptions have been delineated to achieve a workable balance between the competing interests. The Act's broad provisions for disclosure, coupled with specific exemptions, prescribe the "balance" struck between an individual's right to privacy and the basic policy of opening agency records and action to public scrutiny.

[64] As indicated earlier, SPS has deviated from historical practices, and it is possible to de-identify the records in question. In other words, SPS has previously met its obligations pursuant to section 8 of LA FOIP in cases involving General Occurrence Reports but has not done so in this case. I

[65] Therefore, I find, for the 3,485 pages, SPS has not met its obligations under section 8 of LA FOIP and did not take into account all relevant factors in its exercise of discretion. I recommend SPS reconsider the exercise of discretion in this case and conduct a line-by-line review of the 3,485 pages and provide severed versions to the Applicant within 60 days.

[66] As a final consideration, it is worth noting SPS' Policy 16D on *The Local Authority Freedom of Information and Protection of Privacy Act* itself provides:

2. Definitions

..

g. Sever/Redact – severability occurs where a record contains information to which an applicant is refused access. A Head will give access to as much of the record as can reasonably be severed without disclosing the information to which the applicant is refused access [LA FOIP sec. 8].

7. Duty to Assist

a. Section 5.1 of LA FOIP provides the explicit duty for the SPS to assist applicants. The duty to assist is recognized to include, but not be limited to:

...

5) Apply limited and specific exemption to the responsive records;

[67] The above policy does not reflect a clear requirement to conduct a line-by-line review of records, which my office has established is best practice.

[68] Therefore, I recommend that, within 60 days of issuance of this Report, SPS amend it's the above noted policy to require line-by-line reviews and apply severance to records to ensure it meets its obligations pursuant to section 8 of LA FOIP.

IV FINDINGS

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

[70] I find SPS properly applied subsection 14(1)(k) of LA FOIP to information in the records.

[71] I find SPS has not met its obligations under section 8 of LA FOIP and did not take into account all relevant considerations in its exercise of discretion.

V RECOMMENDATIONS

[72] I recommend that, within 60 days of issuance of this Report, before it decides to withhold information where I have found that subsection 14(1)(k) of LA FOIP applies, SPS reconsider its exercise of discretion and conduct a line-by-line review of the 3,485 pages and release severed versions to the Applicant.

[73] I recommend that, within 60 days of issuance of this Report, SPS amend its policies and procedures to require line-by-line reviews and apply severance to records to ensure it meets its obligations pursuant to section 8 of LA FOIP.

Dated at Regina, in the Province of Saskatchewan, this 25th day of November 2024.

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