



REVIEW REPORT 239-2023

Saskatoon Police Service

March 14, 2024

Summary:

The Applicant made an access to information request to the Saskatoon Police Service (SPS). SPS partially denied access to some records pursuant to subsections 14(1)(c), (j) and 28(1) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP). The Applicant was not satisfied with SPS' decision and requested the Commissioner review the exemptions it applied. The Commissioner found that subsection 14(1)(c) of LA FOIP did not apply to part of the record and that subsections 14(1)(j) and 28(1) of LA FOIP applied to some of the information withheld, but not all, and that it was an absurd result to withhold information the Applicant already knew. The Commissioner found that SPS did not fully meet its obligations under section 8 of LA FOIP and recommended it distort the relevant sections of the telephone audio recording and release as much of it as possible. The Commissioner recommended some of the information continue to be withheld under subsections 14(1)(j) and 28(1) of LA FOIP and other information be released to the Applicant.

I BACKGROUND

[1] On December 15, 2022, the Applicant made a request for information to the Saskatoon Police Service (SPS) for:

911 transcript + police report of follow up

On Sept 22 2021 at 20:39 a call was placed to 911 concerning the occupant of a vehicle being assaulted by the driver. The victim escaped the vehicle and shortly thereafter spoke with police officers who approached [them] regarding the matter. At the time, the victim chose to not press charges. I need any available information pertaining to this assault. I am acting as an agent of the court and I need this information to be used as potential evidence in a case I'm working on. I also need to know if there has been any other request for this specific information, specifically I need to know if the Crown

put in any requests for this information. Feel free to contact me at the information provided. I look forward to hearing from you.

[2] On December 15, 2022, the SPS emailed the Applicant asking them to provide additional details to assist it in identifying the records requested as well as copies of their identification to verify their identity.

[3] On December 24, 2022, the Applicant responded to the SPS with the following additional details:

The driver of the car and the assaulter was [Name of other party]. [Applicant] was the passenger and victim. [Name of the other party's] car is a [vehicle description]. I don't know the name of the witness who called 911. I'm not certain the exact location of the incident. But I know it was in the downtown (commercial) area. [Employee of Saskatchewan Public Safety Agency] was able to find the records with this information. I hope it's enough for you. Enclosed are photos of my identification. Happy holidays! Thanks for your time.

[4] On December 28, 2022, SPS responded to the Applicant indicating it had received their identification and the additional information was sufficient to proceed with their request for information.

[5] On January 18, 2023, SPS provided the Applicant with the records responsive to their request by registered mail, providing the audio and video files on a flash drive, but withheld portions under subsections 14(1)(c), (j) and 28(1) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP).

[6] On October 4, 2023, my office received a request for review from the Applicant.

[7] On November 16, 2023, my office provided notice to both the Applicant and SPS of my intention to undertake a review of SPS's decision to withhold part of the records under subsections 14(1)(c), (j) and 28(1) of LA FOIP.

[8] On January 10, 2024, SPS provided my office with its submission. The Applicant did not provide my office with a submission.

II RECORDS AT ISSUE

[9] The records consist of a four page call summary in which three pages were withheld in part under subsections 14(1)(c), (j) and 28(1) of LA FOIP; a five minute and four second audio recording of a telephone call withheld in full under subsections 14(1)(c) and 28(1) of LA FOIP; a 14 page general occurrence report of which four pages were withheld in part under subsection 28(1) of LA FOIP; and video recordings from a front dash camera of a patrol vehicle and a rear seat camera of a patrol vehicle, both 11 minutes and 13 seconds each, of which one second of the audio only was withheld at 8:00 - 8:01 under subsection 14(1)(j). Two seconds of the front dash camera recording was also withheld in part under subsection 28(1) of LA FOIP.

III DISCUSSION OF THE ISSUES

1. Do I have jurisdiction?

[10] The SPS is a “local authority” pursuant to subsection 2(1)(f)(viii.1) of LA FOIP. Therefore, I have jurisdiction to conduct this review.

2. Did the SPS properly apply subsection 14(1)(c) of LA FOIP?

Record	Page/section	Redaction #
R1 - Call summary	1 2	5 1 - 2
R3 - Telephone audio recording	Entire recording	Withheld in full

[10] SPS withheld pages 1 and 2 of the call summary in part and the telephone audio recording in full under subsection 14(1)(c) of LA FOIP.

[11] Subsection 14(1)(c) of LA FOIP provides:

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

...

(c) interfere with a lawful investigation or disclose information with respect to a lawful investigation;

...

[12] 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), pages 53 to 56, states that subsection 14(1)(c) is a discretionary class-based and harm-based exemption. Meaning it contains both a class and harm-based component. It permits refusal of access in situations where the release of a record could interfere with a lawful investigation or disclose information with respect to a lawful investigation. The following two-part test can be applied:

1. Does the local authority's activity qualify as a "lawful investigation"?
2. Does one of the following exist?
 - a) Could release of the following information interfere with a lawful investigation?
 - b) Could release disclose information with respect to a lawful investigation?

[13] I will apply the first part of the test to the information SPS withheld under subsection 14(1)(c) of LA FOIP.

1. Does the local authority's activity qualify as a "lawful investigation"?

[14] The *Guide to LA FOIP*, Ch. 4 at page 54, states that a "lawful investigation" is an investigation that is authorized or required and permitted by law. The local authority should identify the legislation under which the investigation is occurring. The investigation can be concluded, active and ongoing or be occurring in the future. It is not limited to investigations that are conducted by a local authority. In other words, it can include investigations conducted by other organizations (e.g., a police investigation).

[15] Some of the information withheld on the call summary is a brief description of the incident the Applicant was involved in, the sex of the other individual involved and information about the vehicle and owner of the vehicle they were riding in.

[16] SPS also applied this exemption to the telephone audio recording in full. This recording contains information collected from a complainant calling SPS to report an incident.

[17] In its submission to my office, SPS explained that subsection 36(2) of *The Police Act, 1990*, provides it with the authority to conduct lawful investigations and enforce respective laws. Subsection 36(2) of *The Police Act, 1990*, provides:

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;

[Emphasis in original]

[18] *Black's Law Dictionary*, 11th Edition, 2019 defines "investigation" as:

The activity of trying to find out the truth about something, such as a crime, accident, or historical issue; esp., either an authoritative inquiry into certain facts, as by a legislative committee, or a systematic examination of some intellectual problem or empirical question, as by mathematical or use of the scientific method.

[19] *The Shorter Oxford English Dictionary on Historical Principles*, Oxford University Press 1973, Volume 1 at page 1425 defines "investigation" as:

1. The action or process of investigating; systematic examination; careful research.
2. An instant of this: as systematic inquiry; a careful study of a particular subject.

[20] Based on a review of the records, it appears SPS received a telephone call from the complainant at 20:43 hours to report an incident on September 22, 2021. The front dash camera recording, which was released to the Applicant, reveals that SPS then located the Applicant on the same date at 20:49 hours. The officer very briefly spoke to the Applicant and called them a cab but did not appear to ask the Applicant's name or any other information such as, who the other individual was that was involved in the incident. SPS did not request statements of the individuals involved and did not interview the Applicant, or any other parties involved in the incident. It is reasonable to assume an act of investigating and trying to find out the truth about a crime would involve an officer making notes, interviewing witnesses, and gathering some type of evidence from the Applicant, such as pictures or a statement to determine whether criminal charges could be laid. Although SPS hasn't provided existing evidence or its attempts to find evidence, it indicated that if new evidence arose there could be criminal charges.

[21] SPS further stated the records relate to calls for service that, while no charges were laid, if new evidence arose could result in charges under the *Criminal Code*. Information released from the call summary indicates that the matter was closed.

[22] One of the records provided by SPS to the Applicant is a witness statement dated July 15, 2022, where the Applicant appeared at SPS to report the same incident that occurred on September 22, 2021, and provide a witness statement which is attached to the general occurrence report. If any evidence was gathered during this time, it would also have been responsive to this access to information request. This is the only new evidence the SPS provided in response to this access to information request. The general occurrence report, which includes the Applicant's witness statement, the record indicated the matter was closed. Any records responsive to this request would also include any evidence collected up until the request date which was December 15, 2022. No evidence was provided within that additional three-month period.

[23] Given the information above and, that it does not appear the SPS has investigated or intends to investigate this incident, I find that the information withheld from the call summary and the telephone audio recording does not meet the first part of the test and therefore, there is

no need to assess the second part of the test. I find that SPS did not properly apply subsection 14(1)(c) of LA FOIP to the withheld parts of pages 1 and 2 of the call summary and the telephone audio recording.

[24] SPS also withheld this same information under subsection 28(1) of LA FOIP; therefore, I will assess whether it was appropriate to withhold portions of the record under this subsection later in this Report.

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

Record	Page/section	Redaction #
R1 - Call summary	4	1
R4 - Front dash camera video	8:00 - 8:01 Audio only	1
R5 - Rear seat camera video	8:00 - 8:01 Audio only	1

[25] SPS withheld one second of audio from each of the two 11 minute and 13 second video camera recordings; one second from a front dash camera and one second from a rear seat camera of the patrol vehicle at 8:00 to 8:01 minutes pursuant to subsection 14(1)(j) of LA FOIP. SPS also withheld information on page 4 at redaction 1 of the call summary under subsection 14(1)(j) of LA FOIP consisting of a dash and a number which appears to be a ten-code. The information withheld on the video camera recordings appears to be different than the information withheld on the call summary.

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

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

...
 (j) facilitate the commission of an offence or tend to impede the detection of an offence;

[27] The *Guide to LA FOIP*, Ch. 4 at page 75, states that subsection 14(1)(j) of LA FOIP is a discretionary harm-based exemption. It permits refusal of access in situations where release of a record could facilitate the commission of an offence or impedes the detection of one.

[28] My office uses the following two-part test to determine whether subsection 14(1)(j) of LA FOIP applies. However, the *Guide to LA FOIP*, Ch. 4 at page 75, states only one of the questions needs to be answered in the affirmative for the exemption to apply. There may be circumstances where both questions apply and can be answered in the affirmative.

1. Could release of the record facilitate the commission of an offence?
2. Could release of the record tend to impede the detection of an offence?

1. *Could release of the record facilitate the commission of an offence?*

[29] The *Guide to LA FOIP*, Ch. 4 at pages 75 and 76, interprets this part of the test as follows:

- Section 14 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 harm could occur. If it is fanciful or exceedingly remote, the exemption should not be invoked. For this provision to apply there must be objective grounds for believing that releasing the information could facilitate the commission of an offence.
- Facilitate means to make the occurrence of something easier; to render less difficult.
- Commission in this context means the action of committing an offence.
- Offence means a violation of the law; a crime.
- Examples include information about techniques, tools and instruments used for criminal acts; names of individuals with permits for guns; the location of police officers; and the location of valuable assets belonging to a local authority.

[30] In its submission, SPS stated that:

The use of ten-codes by law enforcement personnel is used as a means of communication that conveys a specific message without publicly identifying its true meaning. In Saskatchewan, each police service maintains an individual list of ten-codes only used by one specific police service, with the exception of standardized ten-codes such as 10-4 (understood/message received).

[31] SPS provided the following finding to further its argument:

The Office of the Information and Privacy Commissioner of Ontario has consistently found that disclosing ten-codes could reasonably be expected to facilitate the commission of an offence or impede the control of crime. In [Order PO-1665](#), Adjudicator Laurel Cropley found that:

In my view, disclosure of the “ten-codes” would leave OPP officers more vulnerable and compromise their ability to provide effective policing services as it would be easier for individuals engaged in illegal activities to carry them out and would jeopardize the safety of OPP officers who communicate with each other on publicly accessible radio transmission space.

[32] In my office’s [Review Report 353-2019](#), I also reviewed a matter concerning “ten-codes” used by the SPS. SPS described “ten-codes” as “dispatch codes”. In that report, I found at paragraphs [17] and [18], that subsection 14(1)(j) of LA FOIP applies to such codes because disclosure could facilitate the commission of an offence. Similarly, I find subsection 14(1)(j) of LA FOIP applies to the ten-code in the call summary record and I recommend SPS continue to withhold this information pursuant to subsection 14(1)(j) of LA FOIP.

[33] SPS indicated in its submission that one second of each video camera recording also contain “ten-codes”. Upon listening to both the video camera recordings from the front dash camera and the rear seat camera of a patrol vehicle, I find that ten-codes were found in the audio of these records at 8:00 to 8:01 minutes into each of the recordings. Therefore, subsection 14(1)(j) of LA FOIP would apply to the two one second sections of the video camera recordings from the front dash camera and the rear seat camera of a patrol vehicle.

[34] The recordings are however of the conversation between the Applicant and the attending police officer. The Applicant was present while the officer spoke the “ten-codes”. Therefore, the Applicant would already have knowledge of this information as they were present during the recording. If it was determined there was no harm in verbally providing it while the Applicant was present, SPS has not indicated why there would be harm in releasing it again now. Withholding this information would therefore, result in an absurd result.

[35] I will address the absurd result principle later in this Report and will revisit the video camera recordings there before making my recommendation.

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

Record	Page/section	Redaction #
R – 1 Call summary	1	1 – 8
	2	1 – 5
R – 2 General occurrence report	2	1 – 17
	3	1 – 34
	4	1 - 6
R – 3 Telephone audio recording	0:00 - 5:40	Entire recording
R4 - Front dash camera video	0:04 - 0:06 Video only	1

[31] SPS withheld the entire telephone audio recording and portions of the call summary, the general occurrence report, and two seconds of the video camera recording from the front dash camera of the patrol vehicle under subsection 28(1) of LA FOIP which provides:

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.

[32] The *Guide to LA FOIP*, Ch. 4 at pages 259 and 260, describes subsection 28(1) of LA FOIP as follows:

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.

[33] Subsection 23(1) of LA FOIP defines personal information as personal information about an identifiable individual that is recorded in any form. The following provisions of subsection 23(1) of LA FOIP are relevant to the matter before me:

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;

...

(e) the home or business address, home or business telephone number, fingerprints or blood type of the individual;

...

(k) the name of the individual where:

(i) it appears with other personal information that relates to the individual; or

(ii) the disclosure of the name itself would reveal personal information about the individual.

[34] SPS withheld parts of pages 1, 2 and 4, of the call summary under subsection 28(1) of LA FOIP. It withheld the name, telephone number and province of the complainant on page 1 at redactions 6, 7 and 8 and page 2 at redactions 4 and 5. The phone number of the complainant qualifies as personal information pursuant to subsection 23(1)(e) of LA FOIP. The name of the complainant along with other personal information about them is information where the name of the individual appears with other personal information that relates to the individual and therefore, qualifies as personal information under subsection 23(1)(k)(i) of LA FOIP. Therefore, I find that SPS properly applied subsection 28(1) of LA FOIP to this part of the call summary on page 1 at redactions 6, 7 and page 2 at redactions 4 and 5 and I recommend SPS continue to withhold it pursuant to subsection 28(1) of LA FOIP.

[35] The province without the name of the complainant on pages 1 at redaction 8 would not reveal personal information about an individual. Therefore, I find that SPS did not properly apply subsection 28(1) of LA FOIP to the province and recommend it be released.

[36] SPS withheld the sex of the other individual involved in the incident from the call summary on page 1 at redactions 1, 2, 3, 4, 5 and page 2 at redaction 2 under subsection 28(1) of LA FOIP. The sex without association to a name does not reveal personal information about an identifiable individual.

[37] SPS also withheld the relationship of an individual who was with the complainant under subsection 28(1) of LA FOIP on page 2 of the call summary at redaction 2. This would not reveal personal information about an identifiable individual and therefore, does not qualify as personal information. Therefore, I find SPS did not properly apply subsection 28(1) of LA FOIP to the sex and relationship information on pages 1 and 2 of the call summary.

[38] On page 2 of the call summary at redaction 1, SPS withheld vehicle information and information about the registered owner. SPS queried the licence plate number of the vehicle the Applicant was driving in and that information is provided here. When the vehicle is queried, it provides the drivers licence information of the registered owner which includes the name of the registered owner, owner type, drivers licence number, person owner name, address and owner description from the driver's licence of the registered owner of the vehicle. The registered owner was not one of the parties involved in the incident.

[39] From this information, SPS withheld the drivers licence information as well as the licence plate registration information, other numerical information, the date and time and the name of an individual, who appears to be an employee, under subsection 28(1) of LA FOIP. The employee's name has been released throughout the record and is not personal information. Therefore, I find that SPS did not properly apply subsection 28(1) of LA FOIP to the employee's name on page 2 of the call summary and recommend it release it to the Applicant.

[40] Subsection 23(2)(d) of LA FOIP provides:

23(2) "Personal information" does not include information that discloses:

...

(d) details of a licence, permit or other similar discretionary benefit granted to an individual by a local authority;

[41] My office has addressed drivers license information in [Review Report 190-2018](#), where it is stated:

[8] There have been numerous court decisions concerning the release of the names and addresses of registered vehicle owners. Most recently, the court held that the names and addresses of registered vehicle owners was not personal information in *Shook Legal, Ltd v Saskatchewan (Government Insurance)*, 2018 SKQB 238. This is consistent with the 1993 decision of the Saskatchewan Court of Appeal in *City Collection Co. v. Saskatchewan Government Insurance*, 1993 CanLII 8956 (SK QB). Both decisions are relevant as the appellant in *City Collection v SGI* (1993) was Imperial Parking Limited who was seeking the names and addresses of the registered owners of vehicles based on license plate numbers it had. In *Shook Legal, Ltd v SGI* (2018), the appellant was an individual that was seeking the name and address of the last registered owner of a vehicle based on a vehicle identification number (VIN) that he had. **In both decisions, the court determined that the names and addresses of registered vehicle owners was not personal information under FOIP because they constituted the details of a license pursuant to subsection 24(2)(e) of FOIP.**

[Emphasis added]

[42] In consideration of the above, I find that the name and address of the registered owner of the vehicle constitute details of a licence in this case. As such, I find that the name and address are not personal information pursuant to subsection 28(1) of LA FOIP and recommend it be released to the Applicant within 30 days of issuing this Report.

[43] In terms of what constitutes personal information, my office's *Guide to LA FOIP*, Chapter 6, "Protection of Privacy," updated February 27, 2023 (*Guide to LA FOIP*, Ch. 6), at page 39, states:

The list of examples provided for at subsection 23(1) of LA FOIP is not meant to be exhaustive. This means there can be other types of information that could qualify as personal information. Including means that the list of information that follows is incomplete (non-exhaustive). The examples in the provision are the types of information that could be presumed to qualify as personal information.

However, more broadly, to constitute personal information, two elements must be present:

1. The information must be about an identifiable individual; and
2. The information must be personal in nature.

[44] SPS also withheld the date of birth, height and eye colour of the registered owner of the vehicle. As this information is personal in nature and if the name is released, about an

identifiable individual, I find this information is personal information and should be withheld pursuant to subsection 28(1) of LA FOIP. I recommend SPS continue to withhold it.

[45] Vehicle registration information, which includes license plate number and registered address was addressed in my office's [Review Report 181-2022, 182-2022](#), where I cited the Alberta Court of Appeal decision *Leon's Furniture v. Alberta (Information and Privacy Commissioner)*, 2011 ABCA 94 (CanLII) that found a vehicle licence is about a vehicle, not a person. In that decision, the Alberta Court of Appeal said:

[49] The adjudicator's conclusion that the driver's licence number is "personal information" is reasonable, because it (like a social insurance number or a passport number) is uniquely related to an individual. With access to the proper database, the unique driver's licence number can be used to identify a particular person: *Gordon v. Canada (Minister of Health)*, 2008 FC 258 (CanLII), 324 F.T.R. 94, 79 Admin. L.R. (4th) 258 at paras. 32-4. **But a vehicle licence is a different thing. It is linked to a vehicle, not a person. The fact that the vehicle is owned by somebody does not make the licence plate number information about that individual. It is "about" the vehicle.** The same reasoning would apply to vehicle information (serial or VIN) numbers of vehicles. Likewise a street address identifies a property, not a person, even though someone may well live in the property.

[Emphasis in original]

[46] Therefore, I find that SPS did not properly apply subsection 28(1) of LA FOIP to the vehicle registration information at redaction 1 on page 2 of the call summary and I recommend SPS release this information to the Applicant.

[47] On page 2 at redaction 1, SPS withheld the date and time and other numerical information. Date and time do not qualify as personal information pursuant to subsection 28(1) of LA FOIP. SPS has not identified how the other numerical information withheld would constitute personal information or why it was withheld, and I do not see how it could be considered personal information. Therefore, I find that SPS has not properly applied subsection 28(1) of LA FOIP to the date and time and other numerical information on page 2 of the call summary under subsection 28(1) of LA FOIP and recommend it be released to the Applicant within 30 days of issuing this Report.

- [48] SPS also withheld two seconds of the video camera recording from the front dash camera under subsection 28(1) of LA FOIP. SPS indicated in its submission that there is personal information at 0:04 to 0:06 minutes of the front dash camera recording. In my office's [Review Report 254-2022](#), I found that the images of individuals reflected in windows walking by the SPS building qualifies as "personal information" as it is about an identifiable individual and is personal in nature. Similarly, in my office's [Review Report 147-2020](#), I found that an image of a bystander on a security camera qualifies as personal information.
- [49] Upon review of the video camera recording, there is an individual briefly walking in front of the officer's vehicle at the time allocation identified by SPS. I accept that the identity of the individual could be deciphered from their image, particularly when combined with other available sources of information. Therefore, it is reasonable to conclude that the individual in the video camera recording is identifiable and this two second section of the video camera recording qualifies as personal information pursuant to subsection 23(1) of LA FOIP. I find that SPS properly applied subsection 28(1) of LA FOIP to the two second section of the video camera recording from the front dash camera and recommend it continue to withhold it.
- [50] On the general occurrence report, SPS withheld names, sex, date or year of birth, telephone number, address, city and province about this same individual as well as a second individual on page 2 at redactions 1 to 17, from the general occurrence report under subsection 28(1) of LA FOIP. The names of these individuals were not in the other records responsive to this request. The witness statement that was provided on pages 3 to 5 of this same record indicates that the Applicant provided the names of these individuals to SPS and has knowledge of the sex; therefore, it would be an absurd result to withhold the names and sex from the Applicant.
- [51] The date or year of birth, telephone number, and address of the other individuals identified in the general occurrence report qualify as personal information pursuant to subsections 23(1)(a) and (e) of LA FOIP. Although the Applicant knew the individuals identified, there

is no evidence for me to determine that the Applicant has knowledge of this specific information. Therefore, I find that SPS properly applied subsection 28(1) of LA FOIP to the date or year of birth, telephone number, and address on page 2 of the general occurrence report and recommend that SPS continue to withhold it.

[52] The province alone withheld from the general occurrence report is not personal information about an identifiable individual and therefore, was not properly withheld by SPS under subsection 28(1) of LA FOIP and I recommend it be released to the Applicant within 30 days of issuing this Report.

[53] The name and telephone number of the complainant are provided in the telephone audio recording at 5:26 to 5:37. The telephone number qualifies as personal information pursuant to subsection 23(1)(e) of LA FOIP. The name of the complainant along with other personal information about them qualifies as personal information under subsection 23(1)(k)(i) of LA FOIP.

[54] However, as SPS withheld the entire telephone audio recording under subsection 28(1) of LA FOIP, I need to determine if there is personal information in the remainder of the telephone audio recording. SPS indicated in its submission that voice is personal information. In my [Review Report 098-2020](#), I found that a person's voice paired with identifying information qualifies as personal information and stated:

[12] Next, I need to consider if the Caller's voice would qualify as "personal information. In my Review Report 135-2028, I stated my position that a person's voice paired with identifying information that is personal in nature qualifies as "personal information". In that report, I relied on Orders F2009-044 and P2011-003 by Alberta's Office of the Information and Privacy Commissioner (AB IPC). The AB IPC found that a person's voice paired with other information qualifies as personal information. Further, AB IPC provided that a person's voice, tone and inflection could also qualify as personal information. **In this case, any segment containing the callers' voice qualifies as "personal information"**.

[Emphasis added]

[55] The telephone audio recording contains the voice of the complainant along with their name and telephone number at 5:26 to 5:37. Based on this, I find that the section of audio at 5:26

to 5:37 qualifies as personal information. Therefore, I find that subsection 28(1) of LA FOIP was properly applied to the telephone audio recording at 5:26 to 5:37 and recommend this section continue to be withheld and the remainder of the telephone audio recording be released to the Applicant within 30 days of issuing this Report.

[56] To summarize, the following records and redactions were withheld properly under subsection 28(1) of LA FOIP and I recommend they continue to be withheld:

- Call summary - page 1 at redactions 6 and 7, page 2 redactions 4 and 5
- General occurrence report – page 2 at redactions 3, 7 to 9, 12
- Telephone audio recording – 5:26 to 5:37
- Front dash camera recording – at 0:04 – 0:06 video only

[57] The following records and redactions were not withheld properly under subsection 28(1) of LA FOIP and I recommend they be released to the Applicant within 30 days of issuance of this Report:

- Call summary – page 1 at redaction 8, page 2 at redaction 1 and 3
- General occurrence report – page 2 at redactions 4, 5, 13, 16 and 17
- Telephone audio recording – 00:00 to 5:25 and 5:38 to 5:40

Absurd Result

[58] An “absurd result” occurs when a local authority applies an exemption to withhold records that contradicts the purpose of LA FOIP. Past reports by my offices concerning the similar legislation, *The Freedom of Information and Protection of Privacy Act*, (such as [Review Report 047-2022](#)) states that the absurd result principle applies in the following circumstances:

- The requester provided the information to the government institution;
- The requester was present when the information was presented to the government institution; and/or

- The information is clearly within the requester's knowledge.

[59] With respect to the records in question, it appears either the Applicant was provided the information previously, the Applicant provided the information, or the Applicant was involved in and aware of some of the information withheld from them. SPS should be aware of my approach in this regard as I have identified this issue in these previous reports all involving SPS and an absurd result finding:

[Review Report 215-2020](#),
[Review Report 043-2022](#),
[Review Report 111-2022](#),
[Review Report 210-2022](#),
[Review Report 254-2022](#),
[Review Report 161-2022](#), [162-2022](#),
[Review Report 040-2023](#), and
[Review Report 245-2022](#).

[60] On pages 3 to 5 of the general occurrence report, SPS withheld the names and sex of the same two individuals as above, as well as other details taken from the witness statement made by the Applicant under subsection 28(1) of LA FOIP. The information on pages 4 and 5 of the general occurrence report appears to be a summary of the witness statement provided by the Applicant. The information in the occurrence report contains the phrase, "[Applicant last name] states that" which indicates it was provided by the Applicant. Also included in the general occurrence report on pages 6 to 14 is a witness statement, handwritten by the Applicant that was released in full. The witness statement contains the same information that is being withheld on pages 3 to 5. Although this information qualifies as personal information of other individuals, given that this is information that the Applicant provided to SPS, the Applicant would already be aware of the information.

[61] The information withheld on the top of page 1 at redactions 1 - 5 and page 2 at redaction 2 of the call summary, pages 3 to 5 of the general occurrence report and the information withheld in the video camera recording from the front dash camera and rear dash camera were either provided by the Applicant to SPS or was within the knowledge of the Applicant and therefore, it would be absurd to withhold it. Applying the same approach here as in my

previous reports, I find that withholding this information from the Applicant, knowing that they have full knowledge of its contents and have received this information through other means, would be an absurd result.

[62] SPS also withheld the entire telephone audio recording under subsection 28(1) of LA FOIP. Upon listening to the audio recording, the sex of the other individual involved in the incident is identified at 3:43 to 3:44 and 4:30 to 4:31. The Applicant is aware of this information, so it would be an absurd result to withhold it.

[63] In summary, I am recommending the following to be released within 30 days of issuing this Report because of the absurd result if withheld:

- Call summary – page 1 at redactions 1 to 5, page 2 redaction 2
- General occurrence report – page 1 at redactions 1, 2, 6, 10, 11, 14 and 15, page 3 at redaction 1, page 4 at redactions 1 to 34, and page 5 at redactions 1 to 6
- Front dash camera recording – at 8:00 – 8:01 audio only
- Rear seat camera recording – at 8:00 – 8:01 audio only

5. Did SPS comply with section 8 of LA FOIP?

[64] As I noted earlier, SPS withheld the telephone audio recording in full from the Applicant. 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 access.

[65] I note in [Order MO-3961](#), the Office of the Information and Privacy Commissioner of Ontario (ON IPC) provides that, in some cases, public bodies can distort the voice in a recording before releasing:

I have found that, in the specific circumstances of this appeal, it may be possible for the appellant to identify the 911 caller, based on their voice. As a result, I find that if the police were to distort the caller's voice, it would not be possible to identify them. A

finding that information qualifies as “personal information” for the purposes of the definition in section 2(1) of the Act, requires that the individual in question be “identifiable.” **With the voice distorted, I find that the individual would not be identifiable and, therefore, the audio recording would not contain that individual’s personal information. Accordingly, the personal privacy exemption cannot apply to the 911 caller’s information, with the caller’s voice distorted.**

[Emphasis added]

[66] SPS withheld the entire recording in full rather than distorting the voice of the complaint. I find that by not distorting the voice SPS has not complied fully with section 8 of LA FOIP. I recommend that SPS distort the voice of the complainant and provide as much of the telephone audio recording to the Applicant as possible, withholding the name and telephone number of the complainant.

[67] However, I would like to acknowledge that SPS did apply minimal severing in both the front dash camera recording and the rear seat camera recording and did release other records in part. I appreciate its efforts in this regard.

IV FINDINGS

[68] I find that I have jurisdiction to conduct this review.

[69] I find that SPS did not properly apply subsection 14(1)(c) of LA FOIP to part of pages 1 and 2 of the call summary and the telephone audio recording.

[70] I find that subsection 14(1)(j) of LA FOIP applies to the ten-codes in the call summary record.

[71] I find that subsection 14(1)(j) of LA FOIP applies to the audio at 8:00 to 8:01 the video camera recordings from the front dash camera and the rear seat camera of a patrol vehicle but withholding it would be an absurd result.

[72] I find that SPS properly applied subsection 28(1) of LA FOIP to the name and telephone number of the complainant on page 1 and page 2 and the date of birth, height and eye colour of the registered owner of the vehicle on page 2 of the call summary; the date of birth and year of birth, telephone number, and address on page 2 of the general occurrence report; and the two second section of the video camera recording from the front dash camera.

[73] I find that SPS did not properly apply subsection 28(1) of LA FOIP to the province on pages 1 and 2, the sex and relationship information on pages 1 and 2, the employee's name on page 2, the date and time and other numerical information on page 2, the details of the licence and the vehicle registration information of the call summary, the city and province withheld from the general occurrence report.

[74] I find that SPS did not meet its obligation under section 8 of LA FOIP.

[75] I find that it is an absurd result to withhold the information at paragraph [63].

V RECOMMENDATIONS

[76] I recommend SPS continue to withhold the ten code in the call summary pursuant to subsection 14(1)(j) of LA FOIP.

[77] I recommend SPS continue to withhold the name and telephone number of the complainant on page 1 and page 2 and the call summary, the date or year of birth, telephone number, and address on page 2 of the general occurrence report and to the two second section of the video camera recording from the front dash camera recording pursuant to subsection 28(1) of LA FOIP.

[78] I recommend the sex and relationship information on pages 1 and 2, the employee's name date and time and other numerical information on page 2 of the call summary be released to the Applicant within 30 days of issuance of this Report.

- [79] I recommend SPS release the details of a licence and the vehicle registration information on page 2 of the call summary to the Applicant within 30 days of issuance of this Report.
- [80] I recommend the city and province identified in the witness statement of the Applicant withheld from page 2 of the general occurrence report be released to the Applicant within 30 days of issuance of this Report.
- [81] I recommend SPS distort the telephone audio recording, withholding the name and telephone number of the complainant, and release the remainder of the recording to the Applicant within 30 days of issuance of the Report.
- [82] I recommend that SPS release the absurd result information identified in this Report at paragraph [63] within 30 days of issuance of this Report.

Dated at Regina, in the Province of Saskatchewan, this 14th day of March, 2024.

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