



## **REVIEW REPORT 284-2020**

### **Regina Police Service**

**May 09, 2022**

#### **Summary:**

The Applicant submitted an access to information request to the Regina Police Service (RPS) regarding a police report submitted on November 11, 2019, a copy of the Applicant's statement made on November 30, 2019, and call logs the Applicant made to a certain telephone number during the period of November 11, 2019 to December 31, 2019. RPS responded withholding information pursuant to section 28(1) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP). The Applicant requested the Commissioner review RPS's decision to sever information from five pages of the record and withhold three pages of the record in full. The Applicant also requested the Commissioner review RPS's search efforts. The Commissioner found that RPS properly applied section 28(1) of LA FOIP to some, but not all of the record. The Commissioner also found that RPS conducted a reasonable search for some records, but not all. The Commissioner recommended that RPS withhold parts of the severed information and release the rest to the Applicant. The Commissioner also recommended that any header information prepared by the RPS not about an identifiable individual should be released. Finally, the Commissioner recommended that RPS conduct another search for certain records and if search results in additional records that are responsive, that it provides a copy to the Applicant within 30 days of issuance of this Report with any necessary exemptions applied.

#### **I BACKGROUND**

[1] On November 17, 2020, the Applicant, who is a disability support worker for a Supported Individual Living Program (SILP) organization, sent the following access to information request to the Regina Police Service (RPS):

- 1) Police report submitted by [RPS member #1] and [RPS member #2] from November 11<sup>th</sup>, 2019. This is regarding a police request at [third party address] at

15:00-16:00 by my co-worker [name of co-worker] and I [Applicant] regarding an individual who was at risk of committing suicide.

- 2) The second document I'd like to request is a copy of my [Applicant] statement made on November 30<sup>th</sup> at the supervision of [RPS member #3].
- 3) The third set of documents are the call logs that I [Applicant] had made to (306)777-6500 during the period of November 11<sup>th</sup>, 2019 – December 31<sup>st</sup>, 2019.

[2] On December 9, 2020, the RPS responded to the Applicant's access to information request indicating it was withholding information in part pursuant to section 28(1) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP).

[3] On December 19, 2020, the Applicant submitted a request for review to my office.

[4] On January 4, 2021, my office provided notification to the Applicant and RPS of my office's intent to undertake a review of RPS's decision to redact and/or withhold access to parts of the record pursuant to section 28(1) of LA FOIP, and RPS's search efforts to locate all the records that are responsive to this request.

## **II RECORDS AT ISSUE**

[5] The record at issue totals eight pages. RPS partially withheld information on five pages and fully on three pages pursuant to section 28(1) of LA FOIP.

[6] This review will also look at RPS's search efforts as the Applicant does not believe that all responsive records were located.

## **III DISCUSSION OF THE ISSUES**

### **1. Do I have jurisdiction to conduct this review?**

[7] The RPS qualifies as a "local authority" as defined by section 2(f)(viii.1) of LA FOIP. Therefore, I have jurisdiction to review this matter.

### **2. Did RPS properly apply section 28(1) of LA FOIP to the record?**

[8] RPS severed information from five pages of the record pursuant to section 28(1) of LA FOIP. This includes pages 1, 2, 3, 4 and 5. RPS also withheld three pages of the record in full. Where applied, some sentences and paragraphs were withheld in full, others in part. I therefore, will have to consider each statement/paragraph individually to determine if RPS correctly applied section 28(1) of LA FOIP.

[9] Section 28(1) of LA FOIP 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.

[10] In its submission to my office, RPS indicated that information severed on pages 1, 2, 3, 4 and 5 included the identities of individuals other than the Applicant, situations/actions related to individuals other than the Applicant, comments made by an individual other than the Applicant, and other information related to an individual other than the Applicant.

[11] In order for section 28(1) of LA FOIP to apply, I must first find that the information constitutes third party “personal information”. Section 23(1) of LA FOIP defines “personal information” and provides some examples of the types of information that can be considered personal information. The following sections are relevant in this review:

**23(1)** Subject to sections (1.1) and (2), “personal information” means personal information about an identifiable individual that is recorded in any form, and includes:

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

(b) information that relates to the education or the criminal or employment history of individual or information relating to financial transactions in which the individual has been involved;

(c) information that relates to the health care that has been received by the individual or to the health history 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.

[12] The list of examples of personal information in section 23(1) of LA FOIP is not exhaustive. To determine if the information is personal information, it must, 1) be about an identifiable individual, and 2) be personal in nature.

[13] The first page, page 1, that RPS withheld in part is a one-page Supplementary Occurrence Report authorized by RPS member #3. In paragraph 1 of page 1, the severed information includes the home address of an identifiable individual that is not the Applicant. This is personal information pursuant to section 23(1)(e) of LA FOIP. The remaining severed information includes the name of an identifiable individual along with information about this individual's possession and their response to a visit and the type of program the individual is involved. This is personal information pursuant to section 23(1)(k) of LA FOIP. Accordingly, I recommend that RPS continue to withhold this entire paragraph pursuant to section 28(1) of LA FOIP.

[14] In paragraph 2 of page 1, the information can be described as the action of an identifiable individual regarding a possession, and identifiable individuals, along with information about the whereabouts and action of the individuals. This information as a whole may be considered personal information pursuant to section 23(1)(k) of LA FOIP. The name of the Applicant's co-worker is not personal information and should be released. RPS should continue to withhold the rest pursuant to section 28(1) of LA FOIP.

[15] In paragraph 3 of page 1, the information includes names of identifiable individuals along with details of the whereabouts of a possession. The information also includes the availability of an identifiable individual. This information is considered personal

information pursuant to section 23(1)(k) of LA FOIP. I recommend RPS continue to withhold this information pursuant to section 28(1) of LA FOIP.

[16] In paragraph 4 of page 1, the information includes actions taken by identifiable individuals and the availability of an identifiable individual. A family member is also mentioned which is personal information pursuant to section 23(1)(a) of LA FOIP. This information is considered personal information pursuant to section 23(1)(k) of LA FOIP. I recommend RPS continue to withhold this information pursuant to section 28(1) of LA FOIP.

[17] The second record is a two-page Supplementary Occurrence Report authored by RPS member #3. In paragraph 1 of page 2, the information includes a statement made by an identifiable individual regarding a possession and discusses a family member. This information is considered personal information pursuant to sections 23(1)(a) and 23(1)(k) of LA FOIP. I recommend RPS continue to withhold this information pursuant to section 28(1) of LA FOIP.

[18] In paragraph 2 of page 2, the name mentioned on line 2 relates to an alleged action by the Applicant involving a third party. Although the name of the third party is severed, the allegations are about the Applicant. The Applicant should also be aware of the allegations. Therefore, I find it would be an absurd result to withhold the name in the circumstances. I recommend this name be released to the Applicant, but RPS can continue to withhold the rest of the severed information pursuant to section 28(1) of LA FOIP.

[19] In paragraph 3 of page 2, the severed information is a conversation between a police officer and an identifiable individual regarding a missing possession, a family member and possible police action. This information qualifies as personal information as defined by sections 23(1)(a) and 23(1)(k) of LA FOIP. I recommend RPS continue to withhold this information pursuant to section 28(1) of LA FOIP.

[20] The entire paragraph 4 of page 2 does not reveal personal information of an identifiable individual, so I recommend this information be released to the Applicant.

- [21] Paragraph 6 of page 2 contains information about a conversation between a police officer and an identifiable individual about who an individual spoke to regarding a possession. However, I recommend releasing the first part of the first sentence because it is about the Applicant. RPS can continue to withhold the rest pursuant to section 28(1) of LA FOIP.
- [22] In paragraph 7 of pages 2-3, the severed information is conversation regarding different individuals, a possession and actions taken. The severed information qualifies as personal information pursuant to section 23(1)(k) of LA FOIP, because the names of identifiable individuals appear with other personal information that relates to the individuals. I recommend that RPS continue to withhold the information pursuant to section 28(1) of LA FOIP.
- [23] The information in paragraph 8 of page 3 describes a conversation between a police officer and an identifiable individual. In the conversation, the police officer explained the outcome of a complaint and the identifiable individual expressed their sentiments about that outcome. This information can be considered personal information pursuant to section 23(1)(k) of LA FOIP. I recommend RPS continue to withhold this information pursuant to section 28(1) of LA FOIP.
- [24] The next record consists of two pages and is a Supplementary Occurrence Report authored by RPS member #3 (pages 4 and 5). From a review of pages 4 and 5 of the severed record, it appears the severed information includes names of identifiable individuals where the disclosure of the names would reveal personal information about the individuals. This information qualifies as personal information pursuant to section 23(1)(k)(ii) of LA FOIP and should continue to be withheld pursuant to section 28(1) of LA FOIP.
- [25] In summary, I find that section 28(1) of LA FOIP applies to the information severed on pages 4 and 5, and parts of the information severed on pages 1, 2 and 3. I recommend that RPS release the information that does not qualify as personal information on pages 1, 2 and 3 of the record.

[26] Regarding the three pages of the record that were withheld in full, RPS indicated the following:

- I. Original Report – Direct Entry report made by caller [identifiable individual]. RPS considered this report as their own personal witness statement and releasing this report would identify them and their personal information.
- II. Supplementary Report 4 – Information collected by RPS did not involve the Applicant at all. Information on Supplementary Report involved contact with [identifiable individual] and [identifiable individual]. It also involved information relating to [identifiable individual].
- III. Supplementary Report 5 – Information collected by RPS did not involve Applicant at all. Information on Supplementary report involved contact with [identifiable individual] and [identifiable individual].

[27] From a review of the three pages that were withheld in full, the pages include a transcribed report (Original Report) from a telephone call made to the RPS, a Supplementary Occurrence Report written by RPS member #3, and a Supplementary Occurrence Report written by RPS member #4. In all three cases, any header information prepared by the RPS is not about an identifiable individual and should be released as is not personal information.

[28] The information in the transcribed report includes the height, race and build of an identifiable individual. This information is considered personal information pursuant to section 23(1)(a) of LA FOIP. Also included in the transcribed report is the employment history of an identifiable individual. This information is personal information pursuant to section 23(1)(b) of LA FOIP. Further in the transcribed report is the home address of an identifiable individual. This information is personal information pursuant to section 23(1)(e) of LA FOIP. There is also health information of an identifiable individual pursuant to section 23(1)(c) of LA FOIP that is severed. Other information in the transcribed report are an identifiable individual's description of a possession and a description of activities performed by an identifiable individual. This information is personal information pursuant to section 23(1)(k)(i) of LA FOIP. Finally, the transcribed report includes an assertion from one individual that another individual committed a crime. This information is personal information pursuant to section 23(1)(b) of LA FOIP and should be withheld pursuant to section 28(1) of LA FOIP.

- [29] What is not personal information in the transcribed report is factual information, observations or actions taken by RPS that do not involve an identifiable individual. This includes the lines listed at items 5, and 8 through 11 on this page. I recommend those line items be released to the Applicant.
- [30] Another Supplementary Occurrence Report written by employee RPS member #3 was withheld in full. It is one page in length. It includes a description of an identifiable individual's recollection of certain events related to other individuals, actions taken and a possession. This Supplementary Occurrence Report also includes statements given by identifiable individuals about an incident and other identifiable individuals involved in the incident. This information is personal information pursuant to section 23(1)(k)(i) of LA FOIP. There is also information about an identifiable individual's family member which is personal information pursuant to section 23(1)(a) of LA FOIP. I recommend that RPS continue to withhold the content of the record except for the header information as is not personal information.
- [31] The Supplementary Occurrence Report written by employee RPS member #4 is one page in length. It includes information about a telephone call received by RPS from an identifiable individual. Also included in this report is a statement from an identifiable individual about the whereabouts of a possession and a description of emotional sentiments expressed by identifiable individuals. This information is personal information pursuant to section 23(1)(k)(i) of LA FOIP. In paragraph 1 of this supplementary report, the first sentence does not reveal personal information as is about actions taken by RPS. I recommend this information be released to the Applicant. Paragraph 4 of this supplementary report also does not reveal personal information as is a statement. I recommend this paragraph be released to the Applicant along with the header information. The rest can be withheld pursuant to section 28(1) of LA FOIP.
- [32] I find that section 28(1) of LA FOIP applies to the information withheld on the original report the Supplementary Occurrence Report by RPS member #3 and part of the Supplementary Occurrence Report by RPS member #4. I recommend that RPS release the



information that does not qualify as personal information pursuant to section 28(1) of LA FOIP.

[33] In future, when applying severance, I recommend that RPS paginate the record and utilize redaction numbers to each item redacted.

**3. Did RPS conduct a reasonable search for records?**

[34] Section 5 of LA FOIP provides as follows:

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

[35] Section 5.1(1) of LA FOIP requires a local authority to respond to an applicant's access to information request openly, accurately and completely. This means that local authorities should make reasonable effort to not only identify and seek out records responsive to an Applicant's access to information request, but to explain the steps in the process (*Guide to LA FOIP*, Chapter 3, "Access to Records", updated June 29, 2021 [*Guide to LA FOIP*, Ch. 3], p.7).

[36] The threshold that must be met is one of "reasonableness". In other words, it is not a standard of perfection, but rather what a fair and rational person would expect to be done or consider acceptable. A "reasonable search" is one in which an employee, experienced in the subject matter, expends a reasonable effort to locate records which are reasonably related to the request. A reasonable effort is the level of effort you would expect any fair, sensible person searching areas where records are likely to be stored. (*Guide to LA FOIP*, Ch. 3, p. 7).

[37] When a local authority receives a notification letter or email from my office requesting details of its search efforts, some or all of the following can be included in the submission:

- For personal information requests – explain how the individual is involved with the local authority (i.e. client, employee, former employee, etc.) and why certain departments/divisions/branches/committees/boards were included in the search.
- Identify the employee(s) involved in the search and explain how the employee(s) is(are) experienced in the subject matter.
- Explain how the records management system is organized (both paper and electronic) in the departments/divisions/branches/committees/boards included in the search.
- Describe how records are classified within the records management system. For example, are the records classified by: alphabet, year, function, subject?
- Consider providing a copy of your organization’s record schedule and screen shots of the electronic directory (folders & subfolders).
- If the record has been destroyed, provide copies of the record schedules and/or destruction certificates.
- Explain how you have considered records stored off-site.
- Explain how records that may be in the possession of a third party but in the local authority’s control have been searched such as a contractor or information management service provider.
- Explain how a search of mobile electronic devices was conducted (i.e. laptops, smart phones, cell phones, tablets).
- Explain which folders within the records management system were searched and how these folders link back to the subject matter requested. For electronic folders – indicate what key terms were used to search if applicable.
- Indicate the calendar dates each employee searched.
- Indicate how long the search took for each employee.
- Indicate what the results were for each employee search.
- Consider having the employee that is searching provide an affidavit to support the position that no record exists or to support the details provided.

*(Guide to LA FOIP, Ch. 3, pp. 9-10)*

[38] The above list is meant to be a guide. Providing the above details is not a guarantee that my office will find the search conducted was reasonable. Each case will require different search strategies and details depending on the records requested.

[39] In its submission to my office, RPS provided details of its search efforts. This included the scope of the search and search categories as follows:

When [Applicant] submitted their request for information, the request included their name and date of birth. They also included in their request a description of the information they were looking for:

i) Police Report submitted by [RPS member #1] and [RPS member #2] from November 11, 2019. This is regarding a request at [third party address] at 15:00-16:00 by my co-worker [name of co-worker] and I [name of Applicant] regarding an individual who was at risk of committing suicide.

As [Applicant] only provided their name and DOB on their request our office began with a search of those two search parameters. The name and DOB search produced results for file number [File number] along with other occurrences noted for [Applicant]. The file number with [File number] was created in November of 2019 and the location of the event was noted to be the same - [third party address]. We provided redacted copies of these records to [Applicant].

[Applicant's] name and profile was added to this file number, RPS calls it "rolling" a person to file. The information contained in this file did have information relating to a suicidal person and a missing cat. Both [Name of co-worker] and [Applicant] were rolled on the file. The information provided was consistent with the request.

iii) The third set of documents are the call logs that I [Applicant] had made to the (306)777-6500 during the period of November 11<sup>th</sup>, 2019 to December 31<sup>st</sup>, 2019.

RPS does not create call logs in a typical call log fashion. Our "call log" is determined by the type of call or report made to RPS.

a. A file number with RA attached to the file number is the result of a call coming in by 911 to the communications center.

b. A file number with RM attached to the file number is a result of call that was made by a person directly or call for service that is directed by RPS staff.

- c. If [Applicant] had called multiple times for the same incident or to add additional information to a file number, notes may be added to the RM/RA number. Updates to the file are entered into the system as supplementary reports depending if the officer felt that updates needed to be added to the file.
- d. Our office did not acknowledge that the call logs exist or do not exist as our reports located inside file numbers account for calls if required to report on.
- e. If [Applicant] had called multiple times about different incidents or issues, the information would be attached to [Applicant's] name and a different file number would have been issued with [Applicant] rolled on the file.

[40] Further in its submission, RPS provided details of where it conducted its search and who conducted the search as follows:

As [Applicant] only provided their name and DOB for the search parameters, our office searched our IEIS system by searching their name and matching their name to their date of birth. Searching by RA/RM is preferred, as it will always provide us with a direct hit to the information we are searching for. When an RA/RM number is provided we can easily assess if the file exists or doesn't. We can also quickly determine who is involved with the file and the role each person is playing. [Applicant] did not provide us with a RA/RM number, therefore we searched the information by name and DOB.

The Junior Access and Privacy Officer completed the search for records on December 9, 2020. The Access and Privacy Officer as part of the review process also completed a search of the records prior to release of the information on December 9, 2020. Again performing the search by applicant's name and DOB. Both the Junior Access and Privacy Officer and Access and Privacy Officer are certified Records Management Professionals and are experienced in gathering records and performing complete records searches. We are aware of Regina Police Services Records Management System and have been trained on how to search for records within our IEIS system.

[41] In my office's [Review Report 159-2019](#) at paragraph [16], I stated that applicants set the parameters of their search request, so public bodies can conduct a reasonable search of records. As such, there is some onus on the Applicant to establish their basis for believing further records exist, such as by providing supporting evidence.

[42] The Applicant provided a submission on why they believed records related to items 1) and 3) in paragraph [1] of this Report should exist. Their submission is as follows:

The first document that I did not receive upon request was the police report submitted by [RPS member #1] and [RPS member #2] from November 11<sup>th</sup>, 2019 by my former coworker [Name of co-worker] and I [Applicant]. This report was regarding an individual who was at risk of committing suicide. The request for this document was not acknowledged in the response letter. The Supplementary Occurrence Report only paraphrased this incident by [RPS member #3] but was not written by [RPS member #1] and/or [RPS member #2] who were at the scene of the incident and insufficient.

...I was an individual involved in helping the police officers and paramedics at the scene. I believe it is my right to simply have documentation of what my role was in this scenario by the officers at the scene. For whatever reason my former co-worker [Name of co-worker] was acknowledged for their role in this report but I [Applicant] was not, this report could be considered impartial.

Based on the Supplementary Occurrence Report that identifies me at the scene, the information I have provided and the fact [sic] both [RPS member #1] and [sic] [RPS member #2] can identify myself and explain involvement in the case, I believe I have partial access to the report (including the report number).

Lastly, I did not receive documentation of calls made only of myself [Applicant] to (306) 777-6500 from November 11<sup>th</sup>, 2019 – December 31<sup>st</sup>, 2019. My request for this document was not acknowledged in the response letter too. It is my understanding that dispatch calls are important records that are kept. I would like to understand the reason for this enclosure in order to further my dispute.

[43] As noted earlier, a local authority does not have to prove with absolute certainty that records responsive to an access to information request do not exist. However, it must demonstrate that it has conducted a reasonable search to locate them. The threshold that must be met is one of “reasonableness”.

[44] From my review of RPS’s search efforts, I found the following:

Regarding item 1) in paragraph [1] of this Report, the Applicant made specific references to two RPS employees (RPS member #1 and RPS member #2) and claimed the named RPS employees wrote a police report on November 11<sup>th</sup>, 2019, in which the Applicant was part of. RPS did not address how it involved this information given by the Applicant in their search for records.

Regarding item 3) in paragraph [1] of this Report, it appears RPS followed a reasonable process to find records of call logs based on their system of categorization.

[45] I find that RPS did not conduct a reasonable search for records related to item 1) in paragraph [1] of this Report. I recommend that RPS conduct another search for records

related to item 1), and if search results in additional records that are responsive, that it provide a copy to the Applicant within 30 days of issuance of this Report with any necessary exemptions applied. I also find that RPS conducted a reasonable search for records related to item 3) in paragraph [1] of this Report.

[46] Regarding request numbered 2) as described in paragraph [1] of this Report, RPS released in full the Applicant's statement made on November 30<sup>th</sup> at the supervision of RPS member #3. I recommend RPS does nothing further with this part of the Applicant's request.

#### **IV FINDINGS**

[47] I find that section 28(1) of LA FOIP applies to the information severed on pages 4 and 5, and parts of the information severed on pages 1, 2 and 3.

[48] I find that section 28(1) of LA FOIP applies to the information withheld on the transcribed report, the Supplementary Occurrence Report made by RPS member #3 and parts of the Supplementary Occurrence Report by RPS member #4.

[49] I find that section 28(1) of LA FOIP does not apply to parts of the information withheld in the Supplementary Occurrence Report by RPS member #4.

[50] I find that it would be an absurd result to withhold the name of the Applicant in paragraph 2 of page 2 of the second Record. Section 28(1) of LA FOIP does not apply to this information.

[51] I find that RPS did not conduct a reasonable search for records related to item 1) in paragraph [1] of this Report.

[52] I find that RPS conducted a reasonable search for records related to item 3) in paragraph [1] of this Report.

#### **V RECOMMENDATIONS**

- [53] I recommend that RPS release the information that does not qualify as personal information.
- [54] I recommend that RPS release the name of the Applicant in paragraph 2 of page 2 of the second Record.
- [55] I recommended that any header information prepared by the RPS should be released as is not about an identifiable individual.
- [56] I recommend that RPS conduct another search for records related to item 1) in paragraph [1] of this Report, and if search results in additional records that are responsive, that it provide a copy to the Applicant within 30 days of the issuance of this Report with any necessary exemptions applied.
- [57] I recommend that in future, when applying severance, that RPS paginate the record and utilize redaction numbers to each item redacted.

Dated at Regina, in the Province of Saskatchewan, this 9<sup>th</sup> day of May, 2022.

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