



## **REVIEW REPORT 152-2019**

### **Regina Police Service**

**December 11, 2019**

**Summary:** The Applicant requested a review of the Regina Police Service (RPS) decision to deny access to their request for settlement payments claiming it was personal information. The Commissioner found that subsection 28(1) of *The Local Authority Freedom of Information and Protection of Privacy Act* applies to the names of the RPS members, the names of the plaintiffs, and the amount paid to the plaintiffs, but does not apply to the remainder of the record. The Commissioner recommended the RPS continue to withhold the names of the RPS members, the names of the plaintiffs, and the amount paid to the plaintiffs and release the remainder of the record to the Applicant.

### **I BACKGROUND**

[1] The Applicant submitted an access to information request to the Regina Police Service (RPS) on April 11, 2019, requesting access to:

All records concerning payments made to private citizens by the Regina Police Service for settlements following allegations and/or findings of police misconduct between Jan 1/18 and Mar 31/19. Include monthly breakdowns for each month.

[2] By email dated April 23, 2019, the RPS responded to the Applicant advising that the records were being withheld in full as they constituted personal information pursuant to subsection 23(1)(b) of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP).

[3] On April 25, 2019, the Applicant contacted the RPS advising they were only looking for dollar totals and corresponding dates, by month and year. The RPS responded on April 30, 2019, advising that the dollar totals and dates would still make the person identifiable, and thus, the RPS continued to withhold the information.

[4] On May 14, 2019, the Applicant requested a review by my office indicating that they had been denied access to the record.

[5] My office notified the Applicant and the RPS of our intention to undertake a review on May 22, 2019, and invited both parties to make a submission.

## **II RECORDS AT ISSUE**

[6] The record at issue is one page. The RPS has claimed the contents constitute personal information pursuant to subsection 23(1)(b) of LA FOIP.

## **III DISCUSSION OF THE ISSUES**

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

[7] The RPS qualifies as a local authority pursuant to subsection 2(f)(viii.1) of LA FOIP. Therefore, my office has jurisdiction to review this matter.

### **2. Does subsection 28(1) of LA FOIP apply to the record?**

[8] Subsection 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.

[9] In order to rely on subsection 28(1) of LA FOIP to withhold information, it must first be determined that the information in question constitutes personal information. The RPS has

withheld the record in full claiming it was personal information pursuant to subsection 23(1)(b) of LA FOIP.

[10] Subsection 23(1) of LA FOIP provides an enumerated list of examples of what is considered personal information under LA FOIP; however, it is not an exhaustive list. In order to qualify as personal information two elements must exist:

1. Is there an indefinable individual? and
2. Is the information personal in nature?

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

***1. Is there an identifiable individual?***

[12] *Identifiable individual* means that it must be reasonable to expect that an individual may be identified if the information were disclosed. The information must be reasonably capable of identifying particular individuals because it either directly identifies a person or enables an accurate inference to be made as to their identity when combined with other available sources of information (data linking), or due to the context of the information in the record.

[13] The use of the term “individual” in this provision makes it clear that the protection provided only applies to natural persons. Therefore, it does not include information about a sole proprietorship, partnership, unincorporated association or corporation.

[14] From a review of the record, there are identifiable individuals in this record. Accordingly, I find that the first part of the test has been met.

***2. Is the information personal in nature?***

[15] *Personal in nature* means that the information reveals something personal about the individual. Information that relates to an individual in a professional, official or business

capacity could only qualify if the information revealed something personal about the individual. An example of this would be information that fits the definition of employment history.

[16] In its submission, the RPS advised my office that the information was withheld pursuant to subsection 28(1) of LA FOIP, because it was information relating to financial transactions in which the individuals were involved. The RPS also advised that it evaluated the possibility of providing a monthly breakdown of amounts with no names. However, it determined that if the month and amount were disclosed, the individual that received the payment would be easily identified.

[17] I also note that the record includes RPS members' names. As noted above, information that relates to an individual in a professional, official or business capacity could only qualify if the information revealed something personal about the individual.

[18] Subsections 23(1)(b) and (k) of LA FOIP provide:

**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:

...

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

...

(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.

[19] I will first look at the names of the individuals who were provided the settlement payment and the amount of each settlement payment.

[20] In Review Report 173-2018, I defined *settlement* in paragraph [29]:

[29] *Settlement* means the action or process of settling; an official agreement intended to resolve a dispute or conflict (Pearsall, Judy, *Concise Oxford Dictionary*, 10th Ed. at p. 1312, (Oxford University Press)).

[21] In this case, the individuals were the victims of alleged misconducts by members. As the individuals agreed to a settlement due to the misconduct, both elements constitute personal information pursuant to subsections 23(1)(b) and (k) of LA FOIP as they are financial transactions involving the individuals and the financial transactions appear with the name of the individuals. In addition, the RPS advised me that there was extensive media coverage around one of the incidents.

[22] I agree that when there is media coverage surrounding an incident, there is readily available information that would enable someone to link the payment amount to the name of the individual who received the payment, therefore potentially revealing personal information.

[23] Further, the names of the RPS members in the table, if released, would reveal that they were involved in an alleged misconduct that resulted in a settlement payment, and therefore, that relates to the member's employment history pursuant to subsection 23(1)(b) of LA FOIP.

[24] However, the table titles and header rows would not qualify as personal information as they do not reveal anything that is personal in nature. Further, the date the payment was made to the claimant, the information found in the "P.O.#" [purchase order number] column, the information found in the "Law Firm" column, and the general ledger numbers does not reveal information that is personal in nature. Therefore, this information is not protected under subsection 28(1) of LA FOIP.

[25] I find that subsection 28(1) of LA FOIP applies to the names of the RPS members, the names of the plaintiffs, and the amount paid to the plaintiffs, but does not apply to the remainder of the record.

#### **IV FINDING**

[26] I find that subsection 28(1) of LA FOIP applies to the names of the RPS members, the names of the plaintiffs, and the amount paid to the plaintiffs, but does not apply to the remainder of the record.

#### **V RECOMMENDATION**

[27] I recommend the RPS continue to withhold the names of the RPS members, the names of the plaintiffs, and the amount paid to the plaintiffs and release the remainder of the record to the Applicant.

Dated at Regina, in the Province of Saskatchewan, this 11th day of December, 2019.

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