



Office of the
Saskatchewan Information
and Privacy Commissioner

REVIEW REPORT 063-2025

University of Saskatchewan

July 23, 2025

Summary:

The Applicant submitted an access to information request under *The Local Authority Freedom of Information and Protection of Privacy Act (LA FOIP)* to the University of Saskatchewan (U of S) for records related to complaints against them related to a trespass notice. U of S responded to the access to information request by withholding records in full pursuant to sections 14(1)(a), (k), (k.1), 20, and 28(1) of *LA FOIP*. When it provided its submission, U of S dropped its reliance on section 28(1) of *LA FOIP*. The Applicant requested a review by the Office of the Saskatchewan Information and Privacy Commissioner. The Commissioner found that U of S properly applied section 14(1)(k) of *LA FOIP* to the records at issue and did not need to consider U of S' application of sections 14(1)(a), (k.1), and 20 of *LA FOIP*. As a result, the Commissioner recommended that U of S continue to withhold the records at issue pursuant to section 14(1)(k) of *LA FOIP*.

I BACKGROUND

- [1] On February 3, 2025, the University of Saskatchewan (U of S) received an access to information request from the Applicant for the following:

Any and all complaints received by the University of Saskatchewan in relation to [Name of Applicant] leading to the trespass notice.

- [2] On February 13, 2025, U of S provided its section 7 decision to the Applicant. In its decision, U of S advised it was withholding the records in full pursuant to sections 14(1)(a), (k), (k.1), 20, and 28(1) of *The Local Authority Freedom of Information and Protection of Privacy Act (LA FOIP)*.

- [3] On March 24, 2025, the Office of the Saskatchewan Information and Privacy Commissioner (OIPC) received a request for a review from the Applicant.
- [4] Between March 24, 2025, and April 21, 2025, OIPC worked to effect an early resolution of the matter without success.
- [5] On April 21, 2025, OIPC provided notice of a review to the Applicant and U of S. On April 21, 2025, OIPC requested that U of S provide a copy of the unredacted records and its index of records by May 21, 2025. Further, both parties were invited to provide submissions to OIPC by June 20, 2025.
- [6] U of S provided OIPC with a redlined copy of the record and its index of records on May 16, 2025. U of S provided its submission to OIPC on June 20, 2025, and did not consent to OIPC sharing the submission with the Applicant. The Applicant did not provide a submission. On June 25, 2025, U of S provided a revised index of records to OIPC.

II RECORDS AT ISSUE

- [7] The records at issue are six incident reports from U of S Protective Services totalling 19 pages. U of S indicated the records were withheld in full pursuant to sections 14(1)(a) and (k) of *LA FOIP*. U of S also indicated that portions of the records were withheld pursuant to sections 14(1)(k.1) and 20 of *LA FOIP*. At one point, U of S applied, and then later withdrew, an application of section 28(1) of *LA FOIP*, as such this section of the statute will not be reviewed in this report.

III DISCUSSION OF THE ISSUES

1. Does OIPC have jurisdiction?

- [8] U of S qualifies as a “local authority” pursuant to section 2(1)(f)(xi) of *LA FOIP*. Therefore, OIPC has jurisdiction to undertake this review.

2. Did U of S properly apply section 14(1)(k) of *LA FOIP*?

[9] U of S applied section 14(1)(k) of *LA FOIP* to the entirety of the records at issue. Section 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

[10] In past OIPC Reports¹, this office has used the following two-part test to determine if section 14(1)(k) of *LA FOIP* applies:

- 1) Is there a law enforcement matter involved?
- 2) Does one of the following exist?
 - a) Could the release of the information interfere with a law enforcement matter?
 - b) Could the release disclose information respecting a law enforcement matter?

[11] The same test will be used in this matter.

1) Is there a law enforcement matter involved?

[12] The expression “law enforcement” pertains to enforcement of general or specific laws by appropriate law enforcement agencies or bodies². First, it must be determined whether members of the U of S Protective Services department can be considered an appropriate law enforcement agency or body.

¹ See OIPC [Review Report 051-2025](#) at paragraph [12]; OIPC [Review Report 147-2024](#) at paragraph [27]; OIPC [Review Report 061-2024](#) at paragraph [28].

² See OIPC [Review Report 051-2025](#) at paragraph [14]. See OIPC [Review Report 330-2023, 334-2023](#) at paragraph [70].

[13] In its submission, U of S asserted that:

Members of Protective Services are appointed special constables pursuant to *The Police Act, 1990*, and are authorized to enforce, among other statutes... *The Trespass to Property Act*.

[Emphasis added]

[14] Sections 2(k)(v), 76 and 78 of *The Police Act, 1990*³ contains the following relevant provisions:

2 In this Act:

...
(k) “**member**” means a member of a police service and, unless otherwise specifically provided, includes:

...
(v) a special constable, unless otherwise indicated in his or her appointment;

...
76(1) The minister may:

(a) appoint any individual as a special constable, or a class of individuals as special constables, that the minister considers necessary, on any terms and conditions that the minister considers advisable.

...
78 Subject to the limitations of the appointment pursuant to section 76, a person who is appointed as a special constable is, while carrying out the duties of a special constable, a peace officer.

[15] Section 78 of *The Police Act, 1990* refers to any limitations of a special constable’s appointment. In its submission to OIPC, U of S provided an “Appointment of Special Constables” letter from the Minister of Corrections, Policing and Public Safety, which provided as follows:

WHEREAS Part V of *The Police Act, 1990*, provides that the Minister may appoint any individual as a Special Constable, or a class of individuals as

³ *The Police Act, 1990*, SS 1990-91, c. P-15.01, as amended.

Special Constables, that the Minister considers necessary, on terms and conditions that are considered advisable;

AND WHEREAS the Vice President of Finance and Resources, University of Saskatchewan has requested the appointment of a Special Constable for the purposes set out in this Appointment;

I HEREBY APPOINT:

Persons employed by the University of Saskatchewan Department of
Protective Services

As Special Constables pursuant to *The Police Act, 1990*, subject to the following conditions:

...

1.1 Subject to section 1.2, the purpose of this Appointment is to enable the Appointee to perform enforcement duties within the territorial jurisdiction defined in Article 2 in relation to the following provincial legislation and all regulations thereunder specified herein:

...

- *The Trespass to Property Act*

...

...

2.1 The primary territorial jurisdiction of the Appointee is, subject to the terms and conditions set out in this Appointment:

a) Within the boundaries of real property held by the University of Saskatchewan, including Saskatoon and Prince Albert campuses and the properties listed in Appendix “A” attached to this Appointment; and

b) Within 100 meters of the public streets, roads, and lanes upon which the University of Saskatchewan Campuses abut.

[Emphasis added]

[16] The *Trespass to Property Act*⁴ provides the following definition under section 2(d):

2 In this Act:

...

⁴ *The Trespass to Property Act*, SS 2009, c. T-20.2, as amended.

(d) **“peace officer”** means a peace officer as defined in *The Summary Offences Procedure Act, 1990*.

[17] *The Summary Offences Procedure Act, 1990*⁵ at section 2(r)(v) provides the following definition:

2 In this Act

...
(r) “peace officer” includes:

...
(v) a person appointed pursuant to *The Police Act, 1990* as a special constable or peace officer;

[18] Therefore, members of U of S Protective Services are considered special constables pursuant to section 2(k)(v) of *The Police Act, 1990* and a peace officer while carrying out their duties do qualify in the circumstances.

[19] Next, it must be determined if the U of S activities in relation to this matter qualify as “law enforcement” matters.

[20] OIPC considers the following to constitute “law enforcement”⁶:

“law enforcement” means

(a) policing, including criminal intelligence operations,

(b) investigations that lead or could lead to a penalty or sanction being imposed, or

(c) proceedings that lead or could lead to a penalty or sanction being imposed;

⁵ *The Summary Offences Procedure Act, 1990*, SS 1990-91, c. S-63.1, as amended.

⁶ OIPC adopted the definition of “law enforcement” from Schedule I of British Columbia’s *Freedom of Information and Protection of Privacy Act* in OIPC [Review Report 051-2025](#) at paragraphs [19] and [22]; See OIPC [Review Report 330-2023, 334-2023](#) at paragraph [70].

[21] In its submission to OIPC, U of S asserted:

Several incidents on USask's Saskatoon campus in April and May 2023 culminated in the issuance of a trespass notice on May 16, 2023 pursuant to *The Trespass to Property Act*.

...

These incident reports relate both to policing and investigations – the reporting and investigation of suspicious activity/persons and the enforcement of trespass law. Therefore, Protective Service's activities in respect of [Name of Applicant] are a law enforcement matter...

Protective Services peace officers are engaged in the maintenance of public order, detection and prevention of crime and the enforcement of the law pursuant to their lawful authority under their appointment. Further, they are authorized to investigate and enforce various statutes including *The Trespass to Property Act*.

[Emphasis added]

[22] U of S Protective Services has the authority to exercise their powers under section 5 of *The Trespass to Property Act*. Section 5 of that statute provides as follows:

5(1) A peace officer may do all or any of the things mentioned in subsection (2) if:

(a) a person enters in or on premises when entry is prohibited pursuant to this Act; or

(b) a person is engaged in an activity in or on premises that is prohibited pursuant to this Act.

(2) In the circumstances mentioned in subsection (1), a peace officer may do all or any of the following:

(a) request a person either orally or in writing not to enter in or on the premises;

(b) request a person either orally or in writing to leave the premises;

(c) request, either orally or in writing, a person engaged in an activity in or on the premises to stop engaging in that activity.

(3) No person shall fail to comply with a request of a peace officer made pursuant to this section.

[23] Further, pursuant to section 14(1) of *The Trespass to Property Act*, individuals can be found guilty of an offence resulting in imprisonment or a fine. Section 14(1) of *The Trespass to Property Act* provides as follows:

14(1) Every person who contravenes any provision of this Act or the regulations is guilty of an offence and liable on summary conviction:

(a) in the case of an individual:

(i) for a first offence, to a fine of not more than \$5,000, to imprisonment for a term not exceeding 6 months or to both; and

(ii) for a second or subsequent offence in relation to the same premises, to a fine of not more than \$25,000, to imprisonment for a term not exceeding 6 months or to both.

[24] From a review of the records, U of S Protective Services members are acting within their powers which could lead to a penalty or sanction being imposed on the Applicant for violation of *The Trespass to Property Act*.

[25] Based on the above analysis, we conclude the first part of the two-part test for section 14(1)(k) of *LA FOIP* has been met.

2) *Does one of the following exist?*

a) *Could the release of the information interfere with a law enforcement matter?*

b) *Could the release disclose information respecting a law enforcement matter?*

[26] In its submission U of S asserted that the release of the records could disclose information with respect to a law enforcement matter. As such, OIPC does not have to consider if there could be *interference* with a law enforcement matter if the records were released since only one of the two options must be met in order to satisfy the requirements of the legislation.

- [27] First, OIPC needs to consider the word “could” as section 14 of *LA FOIP* uses the word “could” versus “could reasonably be expected to.”
- [28] With respect the second pillar of analysis, “could” is used in reference to section 14(1)(c) of *LA FOIP* and not “could reasonably be expected to” as is used in other provisions of *LA FOIP*. The threshold for “could” is somewhat lower than a reasonable expectation – the requirement being only that release “could” have the specified result. There does not need to be a likelihood of a happening, but only an *objective possibility*, or a possibility based on the facts.⁷
- [29] Further, a previous OIPC report provides a definition for “with respect to” as having the widest possible scope.⁸
- [30] U of S asserted in its submission:

At the time of [their] access to information request in February 2025, [Name of Applicant] continued to be incarcerated – either serving a sentence or on remand awaiting trial – and was scheduled to go to trial on the USask trespassing charges on March 25, 2025.

These incident reports relate to both policing and investigations...disclosure of the incident reports discloses information about a law enforcement matter.

USask exercised its discretion to withhold the information given the aforementioned context of criminal behaviour towards the USask community and others and ongoing prosecutions. Protective Services discloses relevant information to the municipal police and prosecution service and does not typically release incident reports to the public.

[Emphasis added]

⁷ [Saskatchewan Government Insurance v Giesbrecht](#), 2025 SKCA 10 at paragraphs [73] and [80]. In this ruling the Court of Appeal considered the word “could” within the context of section 38(1)(f) of *The Health Information Protection Act*, SS 1999, c. H-0.021, as amended, but the substance of the meaning is relevant to this analysis.

⁸ See OIPC [Review Report 020-2024](#) at paragraph [24]; See OIPC [Review Report 241-2024](#) at paragraph [65].

[31] From a review of the incident reports, the records detail the events that occurred between July of 2023 and May of 2024.

[32] As stated in its submission to OIPC, the trespassing charges were expected to go before a court of competent jurisdiction in March of 2025. This directs to the behaviour “that culminated in [Name of Applicant’s] trespass notice.”

[33] Based on the above, OIPC is satisfied that the contents of the records contain information related to a law enforcement matter, the disclosure of which could release information respecting a law enforcement matter. As such, there will be a finding that U of S properly applied section 14(1)(k) of *LA FOIP* to the incident reports.

[34] As section 14(1)(k) of *LA FOIP* has been found to apply to the entirety of the records at issue, OIPC does not need to consider U of S’ application of sections 14(1)(a), (k.1), and 20 of *LA FOIP*. There will be a recommendation that U of S continue to withhold the record at issue pursuant to section 14(1)(k) of *LA FOIP*.

IV FINDINGS

[35] OIPC has jurisdiction to undertake this review.

[36] U of S properly applied section 14(1)(k) of *LA FOIP* to the records at issue.

V RECOMMENDATION

[37] I recommend that U of S continue to withhold the record at issue pursuant to section 14(1)(k) of *LA FOIP*.

Dated at Regina, in the Province of Saskatchewan, this 23rd day of July, 2025.

Grace Hession David
Saskatchewan Information and Privacy Commissioner