



## CONTACT INFORMATION

Office of the Information  
and Privacy  
Commissioner  
3<sup>rd</sup> Floor, 2 Canada Drive  
Sir Brian Dunfield  
Building  
P.O. Box 13004, Station A  
St. John's, NL A1B 3V8  
Tel: (709) 729-6309  
Fax: (709) 729-6500  
Toll Free in  
Newfoundland  
and Labrador:  
1-877-729-6309  
Email:

[commissioner@oipc.nl.ca](mailto:commissioner@oipc.nl.ca)

“The Commissioner’s role is to facilitate the effort of a requestor to seek access to information [...] and is effectively an ombudsman or liaison between the citizen and government in attempting to resolve the request by mediation or otherwise if documents or information known to be existing are being withheld in whole or in part for various reasons”

*Justice Harrington,  
NL CA,  
NL (Information and  
Privacy  
Commissioner) v. NL  
(Attorney General)*

# ABOVE BOARD

A QUARTERLY NEWSLETTER BY THE OFFICE OF  
THE INFORMATION AND PRIVACY COMMISSIONER

VOLUME 06, ISSUE 01

MARCH 2016

- \* Municipal Privacy Bulletin
- \* Open Contracting
- \* CCTV Survey Results
- \* OIPC Audit and Compliance Program
- \* Quarterly Privacy Breach Statistics
- \* Training News – Tip of the Hat to NL Housing
- \* OIPC Follow Up Procedure

## OIPC Releases First Municipal Privacy Bulletin

The OIPC recently launched its first Municipal Privacy Bulletin. We have fielded many requests for more education and training from municipalities in the past and this bulletin is intended to help address these requests, while also helping to ensure that municipalities are aware of the mandatory privacy breach reporting to this Office.

The bulletin described: what a constitutes a breach—an unauthorized access to, or collection, use or disclosure of personal information; the meaning of personal information—recorded information about an identified individual; and noted the mandatory breach reporting and the fact that since June, 2015 this Office has received very few breach notifications from municipalities.

The bulletin explained that responsibility for reporting the breach to our Office rested on the ATIPP coordinator for the Town/City and then

provided real world examples of the type of breaches a town might experience. These examples included: misdirected tax payment request, stolen briefcase containing personal information from work, and inappropriate access to an unsecured work computer at home.

This bulletin was the first of many more to come and will be published on our new website, expected in May. Future topics will include proper collection, use and disclosure, reasonable security measures, accuracy of personal information and other privacy related topics.

If any public bodies have specific training requests or can suggest alternative ways of reaching you, we would love to hear from you. Under *ATIPPA, 2015* this Office was mandated to educate the public and public bodies. We take this responsibility seriously and always welcome feedback on our efforts.

## OPEN CONTRACTING

### Proactive Disclosure of Procurement Records

The Office of the Information and Privacy Commissioner of Ontario published a guidance document on [Open Contracting](#) in which they advocate for proactive disclosure of procurement records when companies do business with Public Bodies. In this piece they stated:

*Many institutions are willing to disclose the contract but they are not able to do so because they have not managed the confidentiality and other expectations of bidders. Contractors frequently appeal institutions' decisions to disclose, relying on the third party information exemption which results in delaying disclosure, and consuming unnecessary time and resources. Almost inevitably, the appeal process results in the IPC ordering the disclosure of the contract, generally based on the grounds that contracts are negotiated, not supplied – an approach that has been repeatedly upheld by the courts. By following the advice in this guide, including managing expectations about the open and public nature of the process and the fact that procurement records will be published, your institution can avoid the unnecessary disputes that arise too frequently in relation to procurement records.*

They offer the following tips on how to design your procurement process with transparency in mind:

- Develop a well-documented framework for your procurement process that ensures transparency and establishes an equitable procurement process.
- Be upfront about your intentions to disclose, and do not commit to confidentiality other than in exceptional circumstances. Make clear on any forms or instructions that information received as part or in support of a bid or proposal will be made available to the public.
- Once you have developed your open procurement process, take steps to ensure that stakeholders are informed and understand the process.
- There may be some exceptional cases when information provided to your institution as part of the procurement process should not be made publicly available. These instances should be rare.
- Where possible, your institution should avoid the unnecessary collection of any information that would fall within this exemption as part of the procurement process. However, if it is necessary that third parties submit information that might fall within the third party information exemption, design your procurement records to ensure that it is simple to remove the specific information that is being excluded from publication from the remaining record. For example, if your institution requests specific proprietary information that will be provided in confidence, ask the third party to include that information in an appendix to the rest of its submission. This approach can also be applied to personal information, such as when employee resumes are provided by a third party to the public body.

OIPC NL fully endorses this approach and would encourage public bodies in NL to consider implementing open contracting practices. Openness benefits everyone!

## CCTV SURVEY RESULTS

In our “Guidelines for Video Surveillance by Public Bodies in Newfoundland and Labrador” we stated that “no comprehensive survey has taken place to determine the extent of the use of video surveillance by public bodies”. We decided to survey all 417 public bodies in Newfoundland and Labrador. In September 2015 the survey was emailed to all public bodies. A follow email up to non-respondents was sent in October 2015 and further telephone and email contact was made with non-respondents in January and February 2016.

Of the 417 public bodies surveyed 407 responded. This represents 97% of all public bodies in Newfoundland and Labrador responding to the survey.

We learned some very interesting things from the survey and a full report will be released shortly. Some of the highlights include:

- 19% currently have CCTV systems in place.
- 4% indicated that they were currently planning the installation of or contemplating the installation of CCTV.
- The number of cameras being used by public bodies varied greatly ranging from 1 to over 600. In total we identified over 3,700 cameras currently being used by public bodies in Newfoundland and Labrador.
- Only 16% of the public bodies currently using or contemplating using CCTV have completed a Privacy Impact Assessment.
- The purposes identified varied by public body but a general theme of safety, security, anti-vandalism, protection of assets and prevention of illegal dumping was consistent throughout.
- 92% reported that the original purpose for the CCTV installation has been met and 23% identified new purposes for CCTV since the original installation.
- 60% have used the CCTV records created.
- 29% have some form of formal policies and procedures around the collection, use and disclosure of personal information.
- 43% have some form of formal policies and procedures around who has access to live feed or recorded information.
- 24% have some form of formal policies and procedures around the retention and destruction of records generated by CCTV.
- The types of CCTV were – 86% video, 12% audio also, 34% movable, and 39% zoom capable.
- The locations were – 61% interior, 78% exterior.
- 56% were permanent and 22% were movable.
- 42% were motion detected, 62% were always on and 6% were sporadic.

The OIPC will be issuing a report with the full findings and commentary on the results. We would like to thank the public bodies who took the time to complete the survey.

## OIPC AUDIT AND COMPLIANCE PROGRAM

The OIPC has established an Audit and Compliance Program to assess the extent to which public bodies are protecting personal information and complying with access provisions under the *Access to Information and Protection of Privacy Act, 2015 (ATIPPA, 2015)*.

An audit provides an assessment of whether a public body is following good personal information protection practice. A public body being reviewed under the Audit and Compliance Program may be assessed on any aspect of its *ATIPPA, 2015* obligations with regard to access, collection, use, disclosure, protection, retention, or disposal of personal information.

As the OIPC is not able to audit every public body on an ongoing basis, we will consider such factors as the number of individuals potentially affected in the event of a breach, the nature and sensitivity of the personal information held by a public body, and the nature and extent of any likely damage or distress caused by non-compliance with the Act when identifying subjects and entities for audit.

Completed assessments will be published for their value as an education tool for all public bodies. Audits will identify areas where a public body may excel with regard to compliance, safeguards, and overall access or privacy management. They will also highlight, importantly, areas where improvements are needed in order to comply with legislation and guidelines.

The OIPC has developed an audit brochure that:

- discusses what an audit is;
- provides examples of subjects for audit (such as policies and procedures, collection, use and disclosure, safeguards, access processes, and accountability and compliance monitoring);
- discusses the benefits and limitations of audits;
- establishes the audit criteria;
- outlines the OIPC's legislative authority and powers; and
- establishes how the OIPC identifies an entity for audit.

While the brochure will be posted online, anyone wishing to request a copy before the launch of the new website should contact the OIPC at [commissioner@oipc.nl.ca](mailto:commissioner@oipc.nl.ca) or by calling 729-6309.

### ***Take Action Now***

To ensure compliance with the *ATIPPA, 2015*, every public body must determine the current state of its personal information holdings and related procedures. Each public body needs to know what it has in the way of personal information, where it is stored and how it is currently managed.

## PRIVACY BREACH STATISTICS Dec 1–Feb 29

During the third quarter of mandatory privacy breach reporting (December 1, 2015 to February 29, 2016) the OIPC received 51 privacy breach reports from 19 public bodies.

This is down from the 61 reports from 21 public bodies received in the [second quarter](#) of mandatory breach reporting.

Since the last quarter's statistics were reported, the Office of the Information and Privacy Commissioner has issued a Privacy Bulletin to all municipalities. This Bulletin described what constitutes a privacy breach in an effort to support and promote compliance with the *ATIPPA*, 2015 privacy provisions. Its other purpose was to ensure that municipalities, in particular, understand the requirement to forward all privacy breach reports to this Office.

In addition to this the OIPC, in the last 3 months, has delivered 6 separate privacy training sessions.

Privacy breach reports to the Commissioner are used primarily to allow the OIPC to advise public bodies about the breach response process, to discuss ways to avoid similar breaches and also to target specific issues or public bodies for privacy training.

If you want the OIPC to deliver training regarding privacy breaches, or any other topic, contact our office to arrange a time.

### Summary by Public Body:

College of the North Atlantic	5
Central Health	3
Department of Advanced Education and Skills	4
Department of Business, Tourism and Rural Development	1
Department of Child, Youth and Family Services	5
Department of Education and Early Childhood Development	1
Department of Justice and Public Safety	3
Department of Municipal and Intergovernmental Affairs	1
Government Purchasing Agency	1
Human Resource Secretariat	5
Labrador Grenfell Health	1
Newfoundland and Labrador English School District	6
NL Housing Corporation	3
Public Service Commission	1
Service NL	7
Town of Happy Valley-Goose Bay	1
Town of Gander	1
Western Health	1
Workplace Health, Safety and Compensation Commission	1

### Summary by Breach Type:

E-mail	16
Fax	4
In Person	5
Intentional	1
Mail Out	14
Other	7
Technical Malfunction	2
Telephone	2

## Training News—Tip of the Hat to NL Housing



The OIPC has been offering training to all public bodies upon request and NL Housing reached out in December of last year for their first training session. Since then they have received four training sessions on privacy breaches and two sessions on general privacy requirements under the *Access to Information and Protection to Privacy Act, 2015*. All levels of staff from front line to senior management have received training.

We encourage all public bodies to take advantage of the offer of training being made by this Office. We have a clear mandate under *ATIPPA, 2015* to educate on the Act and we are here to help.

### OIPC Follow Up Procedure

Follow-up files are created where the Commissioner makes recommendations on policies, procedures or systemic issues that require the implementation, revision or creation of certain processes or policies.

When these files are created it will be noted in the Commissioner's Report or (in the case of informal resolution) the file closing letter and a timeframe will be provided. The OIPC will follow-up in the prescribed timeframe and there is an expectation that the recommendations will be implemented or substantial progress toward the implementation achieved.

Failure to implement recommendations may result in an additional Report or other action by the Commissioner. Likewise, failure to respond to a letter from this Office regarding follow-up will necessitate further action from this Office.

Files will be followed up on where it is indicated. This is not just part of the usual file closure process, it is its own actionable item.

Follow up files will be initiated at the Commissioner's discretion.

### One Last Note

The Office of the Information and Privacy Commissioner's role has become broader under *ATIPPA, 2015*. While we still provide oversight through investigations of complaints, we are also advocates for, advisors on and educators regarding the Act and all it stands for. We encourage all Public Bodies to contact us at any time with questions or concerns. We are available as a resource even when there is no complaint made.