



OFFICE OF THE INFORMATION  
AND PRIVACY COMMISSIONER  
NEWFOUNDLAND AND LABRADOR

## Report A-2023-27

June 6, 2023

Eastern Health

### Summary:

The Complainant made an access to information request to Eastern Health for records related to an ambulance call on November 13, 2022. In response, Eastern Health provided email records, audio recordings, and call summaries responsive to the request. As the Complainant believed there was missing correspondence and that a reasonable search was not conducted, they filed a complaint with this Office. After review of submissions, the Commissioner concluded Eastern Health conducted a reasonable search and met its duty to assist as required by section 13 of *ATIPPA, 2015*.

### Statutes Cited:

[Access to Information and Protection of Privacy Act, 2015](#), SNL 2015, c. A-1.2, Section 13.

### Authorities Relied On:

NL OIPC Report [A-2023-017](#).

### Other Resources:

NL OIPC [Practice Bulletin on Reasonable Search](#), March 2017.

## BACKGROUND

- [1] On January 4, 2023, the Complainant made an access to information request under the *Access to Information and Protection of Privacy Act, 2015* (“*ATIPPA, 2015*”) to Eastern Health for the following:

*Request for communication and OH&S investigation all communication, CAD system tapes from Eastern Health dispatch, all e mails and information from [Manager Paramedicine and Medical Transport] to and from [a named ambulance service] Managers surrounding a mutual aid ambulance call to [a named town] on [date and time provided] that morning and what information Eastern Health requested from [the named ambulance service] around this call?*

(on April 1, 2023, Eastern Health – along with the other regional health authorities and the Newfoundland and Labrador Centre for Health Information were unified into a single entity, Newfoundland and Labrador Health Services. As the request was made to Eastern Health, and the complaint reached this Office when Eastern Health was still an independent organization, I will refer to the public body as “Eastern Health” throughout).

- [2] Eastern Health responded by providing 33 pages of emails, three audio recordings, and two pages summarizing two further audio recordings. Access to some information was refused pursuant to sections 6 (relationship to the *Personal Health Information Act*), 29 (policy advice), 30 (legal advice), and 40 (disclosure harmful to personal privacy).
- [3] The Complainant did not raise any objections to the claimed exceptions. Rather, this complaint concerns the Complainant’s belief that additional records exist and the allegation that Eastern Health failed to conduct a reasonable search for the requested records as required by section 13 of *ATIPPA, 2015*.
- [4] As informal resolution was unsuccessful, the complaint proceeded to formal investigation in accordance with section 44(4) of *ATIPPA, 2015*.

## COMPLAINANT'S POSITION

- [5] It is the Complainant's position that additional records exist regarding communications between Eastern Health and a particular ambulance service that Eastern Health ought to have provided in response to the access to information request.
- [6] In the complaint filed with this Office on March 6, 2023, the Complainant stated, "It is our understanding that there was a follow-up done by Eastern Health with [the other ambulance service] as a result of this incident, which have not been provided to [the Complainant]." Furthermore, the Complainant states it "has not received access to any other communications regarding this incident".

## PUBLIC BODY'S POSITION

- [7] Eastern Health states that it conducted a reasonable search for the requested records and fulfilled its duty to assist the applicant as required by *ATIPPA, 2015*. With respect to the Complainant's allegation that more documentation exists with respect to a follow-up with the other ambulance service, Eastern Health states there are no further records outside the records already provided in response to the request.

## ISSUES

- [8] The issue to be addressed in this Report is whether Eastern Health fulfilled its obligations under section 13 of *ATIPPA, 2015* and more specifically whether they conducted a reasonable search for the responsive records.

## DECISION

- [9] The relevant Section of *ATIPPA, 2015* reads as follows:

*13. (1) The head of a public body shall make every reasonable effort to assist an applicant in making a request and to respond without delay to an applicant in an open, accurate and complete manner.*

- [10] A public body's duty to conduct a reasonable search for records responsive to an access to information request is found in section 13 of *ATIPPA, 2015*, quoted above. As noted in our recent Report [A-2023-017](#), the standard applied to a search is "reasonableness, not perfection." As it is difficult to prove a negative, *ATIPPA, 2015* does not require a public body to prove with absolute certainty that records do not exist.
- [11] In this Office's [Practice Bulletin on Reasonable Search](#), a reasonable search is defined as "one in which an employee, experienced in the subject matter, expends a reasonable effort to locate records which are reasonably related to the request." In our view, Eastern Health has met this standard.
- [12] To assess whether a public body has fulfilled its duty to conduct a reasonable search, a public body must provide information on what steps it took in conducting its search. In the present case, an explanation of the steps Eastern Health took in response to this request was provided to this Office. Information regarding the systems in place for the handling and recording of 911 calls was also provided.
- [13] Emergency calls to 911 are directed to the Medical Communications Center ("MCC") at Eastern Health for coordination with first responders. Both 911 calls and calls between MCC and ambulance service providers are recorded using commercial software specifically designed for monitoring and recording emergency calls. The CAD ("Computer Aided Dispatch") system logs and maintains every call processed by the MCC and has been used since 2018. Recording of calls automatically starts and stops, beginning with the receipt of the call and ending 10 seconds after the connection is terminated.
- [14] In its access to information request, the Complainant requested CAD system recordings relevant to a particular timeframe. A search for the requested recordings was conducted by the Operations Manager of Medical Transport, with assistance from the Regional Director, both of whom are experienced in the subject matter, familiar with the CAD recording system, and able to identify responsive audio recordings.
- [15] Five audio recordings in the general timeframe provided by the applicant were found responsive to the request. In email correspondence provided to our office, concerns were

raised about individuals' privacy in some of the responsive recordings. As such, two of the five audio recordings were provided as brief written summaries which Eastern Health prepared due to the high amount of personal information in the recordings. The Complainant did not raise issue with being provided summaries instead of audio.

[16] The ATIPP Coordinator also conducted a system-wide email search for records responsive to the request using as a search term the email domain of the other ambulance service, and a date range of November 13, 2022 to January 4, 2023. The email records found as a result of this search were responsive to the request and were provided to the applicant.

[17] The Complainant alleges additional records exist relating to correspondence between Eastern Health and the other ambulance service on the night of the November 13, 2022 ambulance call and that it "has not received access to any other communications regarding this incident." Eastern Health states it provided all communications responsive to the request and that it has no additional records. The Complainant has not provided any evidence for why additional records exists outside of a mere assertion that they exist.

[18] As stated in our Office's [Practice Bulletin on Reasonable Search](#):

*Complainants must establish the existence of a reasonable suspicion that a public body is withholding a record, or has not undertaken an adequate search for a record. Sometimes this takes the form of having possession of or having previously seen a document that was not included with other responsive records, or media reports regarding the record. The Complainant is expected to provide something more than a mere assertion that a document should exist.*

[19] In the present case, the Complainant has not established a reasonable suspicion that Eastern Health is withholding a record, or that an adequate search was not completed.

## RECOMMENDATIONS

[20] Under the authority of section 47 of *ATIPPA, 2015*, I recommend that Eastern Health maintain its position.

[21] As set out in section 49(1)(b) of *ATIPPA, 2015*, the head of Eastern Health must give written notice of his or her decision with respect to these recommendations to the

Commissioner and any person who was sent a copy of this Report within 10 business days of receiving this Report.

[22] Dated at St. John's, in the Province of Newfoundland and Labrador, this 6<sup>th</sup> day of June 2023.



Michael Harvey  
Information and Privacy Commissioner  
Newfoundland and Labrador