



OFFICE OF THE INFORMATION
AND PRIVACY COMMISSIONER
NEWFOUNDLAND AND LABRADOR

Report A-2023-048

November 24, 2023

Department of Justice and Public Safety

Summary:

The Complainant made an access to information request to the Department of Justice and Public Safety for all correspondence between themselves and various public officials from January 2020 to the date of the request. The Department responded by providing several hundred pages of records with redactions applied throughout pursuant to various sections of *ATIPPA, 2015*. The Complainant disagreed with the Department's application of section 29 to two specific emails and filed a complaint with this Office. After reviewing the emails, the Commissioner concluded the redactions were appropriate and recommended the Department maintain its position on the matter.

Statutes Cited:

[*Access to Information and Protection of Privacy Act, 2015*](#),
SNL 2015, c. A-1.2, section 29.

Authorities Relied On:

NL OIPC Report [A-2021-033](#).

BACKGROUND

- [1] On August 9, 2022, the Complainant made a request under the *Access to Information and Protection of Privacy Act, 2015 (ATIPPA, 2015)* to the Department of Justice and Public Safety (Department) for all correspondence between themselves and various public officials between January 2020 and the date of the request.
- [2] On February 17, 2023, the Department responded by providing several hundred pages of records to the Complainant. Within the records, some information was withheld pursuant to various exceptions under *ATIPPA, 2015*.
- [3] On August 24, 2023, the Complainant filed a complaint with this Office, alleging the Department failed to provide a letter dated December 16, 2020 and seeking review of section 29 redactions made to two other emails dated December 1, 2020 and December 14, 2020.
- [4] During informal resolution efforts, the Department provided the Complainant with the December 16, 2020 letter and that issue was resolved. The investigation is therefore limited to the two emails referenced above and the application of section 29.
- [5] As informal resolution was unsuccessful, the complaint proceeded to formal investigation in accordance with Section 44(4).

ISSUES

- [6] The only issue to be addressed in this Report is whether the Department was correct in its application of section 29 to the responsive December 1, 2020 and December 14, 2020 emails.

DECISION

- [7] The relevant section of *ATIPPA, 2015* reads as follows:
- 29. (1) The head of a public body may refuse to disclose to an applicant information that would reveal*
- (a) advice, proposals, recommendations, analyses or policy options developed by or for a public body or minister;*
- [8] As noted in Report [A-2021-033](#), the discretionary exception to access for policy advice is intended to provide protection for public servants to freely engage in discussions and debates and otherwise provide opinions, advice, and recommendations on policy matters. The application of redactions for policy advice must also be reasonable. In our view, the withheld information in this case meets this standard and qualifies as policy advice.
- [9] The December 1, 2020 email is from the Complainant to various public officials and discusses challenges of Royal Newfoundland Constabulary (RNC) recruit training in the context of the COVID-19 pandemic. It is a page long, and a part of one paragraph was redacted as containing policy advice. The redacted portion contains options for training of cadets in the upcoming training session. In our view, this information does contain opinion and analyses and the redaction was applied reasonably. For further context, even though the letter was written by the Complainant, it was written in their capacity as an RNC official. It is therefore not the Complainant's personal information, but rather their work product, so the Complainant has no special right of access to the information above and beyond what any other applicant could expect.
- [10] The December 14, 2020 email is between officials at the Department and the RNC and contains an analysis of legislation in the context of the appointment of Commissioned Officers. The information redacted is clearly an analysis of policy options available to the public body and was also reasonably withheld under section 29.

RECOMMENDATIONS

- [11] Under the authority of section 47 of *ATIPPA, 2015*, I recommend that the Department of Justice and Public Safety maintain its position on the matter.
- [12] As set out in section 49(1)(b) of *ATIPPA, 2015*, the head of the Department of Justice and Public Safety 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.
- [13] Dated at St. John's, in the Province of Newfoundland and Labrador, this 24th day of November 2023.



Michael Harvey
Information and Privacy Commissioner
Newfoundland and Labrador