



ABOVE BOARD

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Contact Information

Office of the Information
and Privacy Commissioner

3rd Floor, 2 Canada Drive
Sir Brian Dunfield Building
P.O. Box 13004, Station A
St. John's, NL A1B 3V8

Telephone:

709-729-6309

Fax:

709-729-6500

Toll Free in Newfoundland
and Labrador:

1-877-729-6309

Email:

commissioner@oipc.nl.ca

www.oipc.nl.ca

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Launch of *ATIPPA, 2015 Review*

On July 27, 2020, Minister of Justice and Public Safety Andrew Parsons announced the launch of the statutory review of the *Access to Information and Protection of Privacy Act, 2015 (ATIPPA, 2015)*. The review, which is conducted every five years as per section 117 of the Act, is being conducted by former Chief Justice David Orsborn as Review Committee Chair.

Starting in November 2020, Justice Orsborn sought written submissions from citizens, public bodies, and other stakeholders who wished to make comment on any issues they believed would be relevant for the review. To date, 50 written submissions have been posted on the review [website](#). These submissions came from individuals who may have interacted with *ATIPPA, 2015*, public bodies, other statutory offices, as well as advocacy groups and even the Information Commissioner of Canada.

Justice Orsborn held hearings and public consultations during the last two weeks of January. The Office of the Information and Privacy Commissioner, as the oversight body responsible for *ATIPPA, 2015*, started the public hearings with a presentation on January 18, 2021. During the initial session and subsequent roundtable, the OIPC reiterated its main recommendations to former Chief Justice Orsborn, specifically the need to protect the provision allowing the Commissioner to review solicitor-client records; re-consideration of the workplace investigations section wording; and implementing and codifying the Duty to Document, as has been recommended during other inquiries and reviews.

Following consideration of all written and oral submissions by interested parties, the *ATIPPA Review Committee Chair* is expected to make recommendations in the form of a final report to the Minister of Justice and Public Safety by March 31, 2021.

Duty to Discuss: OIPC Podcast

As part of its mandate to advocate on access and privacy matters, the OIPC recently created a podcast entitled “Duty to Discuss”. The release of the podcast also coincided with the internationally-celebrated Data Privacy Day.

In the inaugural episode, Commissioner Michael Harvey chats with Dr. Chandra Kavanagh of Bounce Health Innovation about the types of health-based technology being developed in Newfoundland and Labrador. The pair also discuss Bounce’s regulatory compliance package which assists entrepreneurs build privacy into their products at the outset of development, instead of making privacy an afterthought.

To listen to Duty to Discuss, please visit [our podcast page](#).



Indirect Collection of Personal Information

This Office recently received an application to indirectly collect personal information pursuant to section 95(1)(c): “In addition to the commissioner's powers and duties under Parts II and III, the commissioner may review and authorize the collection of personal information from sources other than the individual the information is about.”

As a reminder to public bodies, direct collection of information is preferable where possible. However, this Office recognized that there are situations when indirect collection may be necessary.

For more information, please review our guidance document: [“Indirect Collection of Personal Information.”](#)

Bill C-11: *Digital Charter Implementation Act*

In November 2020, Bill C-11 was tabled by the Minister of Innovation, Science and Industry. Bill C-11 – the *Digital Charter Implementation Act* – is an Act which would enact the *Consumer Privacy Protection Act* and repeal Part 2 of the *Personal Information Protection and Electronic Documents Act*, renaming it the *Electronic Documents Act*.

The bill would also enact the *Personal Information and Data Protection Tribunal Act*, establishing an administrative tribunal to hear appeals from decisions of the Privacy Commissioner of Canada under the new *Consumer Privacy Protection Act*.

According to the Government of Canada, the aims of the new legislation include significantly increasing protections to Canadians' personal information by giving Canadians more control and greater transparency when companies handle their personal information.

The new Act would also provide significant new consequences for non-compliance with the law, including steep fines for violations. This will be accomplished by giving the Privacy Commissioner of Canada broad order-making powers, such as the power to compel an organization to comply with requirements under the Act or ordering companies to stop collecting or using personal data.

Bill C-11 also aims to give Canadians more power over their digital and online identities. This includes allowing for meaningful consent by ensuring that clearer language is used by companies in obtaining consent to collect, use or disclose information.

As the first meaningful overhaul of federal privacy in several years, Bill C-11 requires organizations using artificial intelligence (AI) to be transparent about how information is obtained and how these systems use personal information to make predictions, recommendations or decisions about individuals.

At this point, the bill is still being studied by external experts and by parties such as the Office of the Privacy Commissioner of Canada. The full text of the bill is available [here](#).

Internet Voting – Privacy and Security Risks

With the recent United States election and our own provincial election approaching in mid-February, the idea of electronic and internet voting has once again arisen. Given the current global health crisis of COVID-19, governments are increasingly looking to alternate ways to protect the right to vote, while also trying to ensure the health and safety of its citizens are not put at risk.

During the first few months of the pandemic, the OIPC's Director of Research and Quality Assurance, Sean Murray, tackled this subject in a white paper entitled "Internet Voting – Privacy and Security Risks", in which he concluded that, in comparison to traditional paper voting, internet voting involves significant risks to privacy as well as security, verifiability and anonymity which have not been overcome.

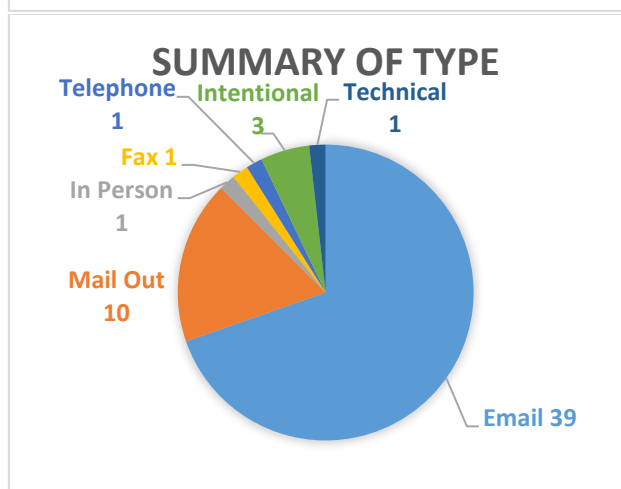
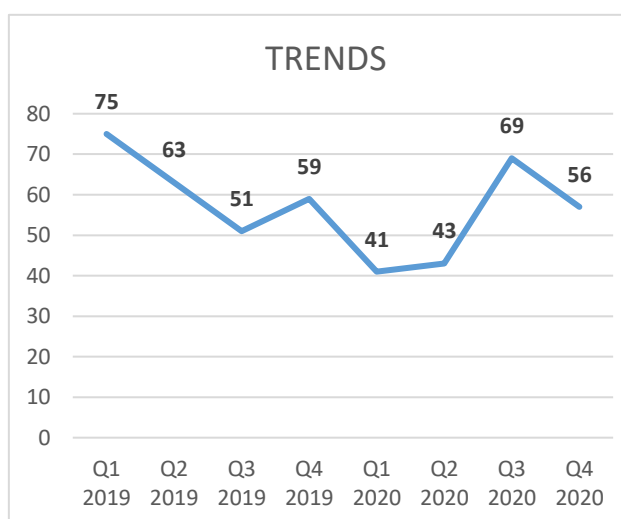
The complete paper can be read [here](#).

ATIPPA, 2015 Privacy Breach Statistics October 1, 2020 – December 31, 2020

During the period of October 1, 2020 to December 31, 2020, the OIPC received 56 privacy breach reports from 19 public bodies under ATIPPA, 2015. This is a small but still notable decrease from the 69 breaches reported during the previous quarter. It should also be noted that email continues to be the primary source of breach, totaling 39 breaches.

If any public body would like the OIPC to deliver training regarding privacy breaches, or any other topic relating to access or privacy, please contact our Office to arrange a time.

Summary by Public Body	
City of St. John's	2
College of the North Atlantic	10
Department of Children, Seniors and Social Development	4
Department of Digital Government and Service NL	3
Department of Fisheries, Forestry and Agriculture	1
Department of Finance	1
Department of Immigration, Skills and Labour	10
Department of Industry, Energy and Technology	1
Department of Justice and Public Safety	3
Eastern Health	1
Human Resource Secretariat	2
Memorial University	3
Newfoundland and Labrador English School District	2
Newfoundland and Labrador Legal Aid Commission	3
Newfoundland and Labrador Housing Corporation	3
Public Service Commission	1
Royal Newfoundland Constabulary	4
Treasury Board Secretary	1
WorkplaceNL	1
Total	56



The OIPC has issued a [Tip Sheet](#) on avoiding inadvertent privacy breaches