



OFFICE OF THE INFORMATION
AND PRIVACY COMMISSIONER

NEWFOUNDLAND AND LABRADOR

ANNUAL
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2015-16

Access

“... the overarching purpose of access to information legislation, then, is to facilitate democracy. It does so in two related ways. It helps ensure first, that citizens have the information required to participate meaningfully in the democratic process, and secondly, that politicians and bureaucrats remain accountable to the citizenry.”

*Dagg v. Canada, [1997] 2 S.C.R. 403
Laforest, J.*

Privacy

“This Court has recognized that the value of privacy is fundamental to the notions of dignity and autonomy of the person [...] Equally, privacy in relation to personal information and, in particular, the ability to control the purpose and manner of its disclosure, is necessary to ensure the dignity and integrity of the individual. [...] We also recognize that it is often important that privacy interests be respected at the point of disclosure if they are to be protected at all, as they often cannot be vindicated after the intrusion has already occurred [...]”

*R. v. Osolin, [1993] 4 S.C.R. 595
L'Heureux-Dubé J. (Dissenting)*

Personal Health Information Act

“I say, Mr. Speaker, this piece of legislation is intended to be a comprehensive piece of legislation to protect the integrity of your personal health information, protect the privacy and the sensitivity of the information through laying out, in a step-by-step mechanism, the whole process of storing and releasing and how personal health information gets used. It has been constructed on the basis of a wide consultation process. I say, Mr. Speaker, it reflects the principles as outlined in both the federal legislation that currently exists, as well as provincial legislation that currently exists with respect to this.”

*Hon. Ross Wiseman, Minister of Health and Community Services
House of Assembly Hansard, May 26, 2008*



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NEWFOUNDLAND AND LABRADOR

June 17, 2016

The Honourable Tom Osborne, MHA
Speaker of the House of Assembly
Newfoundland and Labrador

I am pleased to submit to you the Annual Report for the Office of the Information and Privacy Commissioner in accordance with the provisions of section 105 of the *Access to Information and Protection of Privacy Act, 2015*, and section 82 of the *Personal Health Information Act*. This Report covers the period from April 1, 2015 to March 31, 2016.

Edward P. Ring
Information and Privacy Commissioner

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Commissioner's Message



Under the *Access to Information and Protection of Privacy Act, 2015* (the “*ATIPPA, 2015*”), Newfoundlanders and Labradorians are given legal rights to access government information with limited exceptions. Access to information refers to the public’s right to access records relating to the operations of public bodies in the Province, ranging from general administrative records, financial records, permits, policies, etc. The *ATIPPA, 2015* also gives individuals a right of access to their own personal information which is held by a public body. The basic objective is to make government open and transparent, and in doing so to make government officials, politicians, government departments, agencies and municipalities more accountable to the people of the Province.

.....○
The manner in which public bodies respond to OIPC’s involvement is a key factor in how the public measures the true commitment of the government and its agencies to the principles and spirit of the legislation.

Access to information is a clearly understood right which the public has demanded and which governments have supported through legislation and action. Since the proclamation of *ATIPPA, 2015* the incidents of unnecessary delays and unsubstantiated refusals to release information have been significantly reduced.

The *ATIPPA, 2015*, like legislation in other Canadian jurisdictions, established the Information and Privacy Commissioner (the “Commissioner”) as an Officer of the House of Assembly, with a mandate to provide an independent and impartial review of decisions and practices of public bodies concerning access to information and privacy issues. The Commissioner is appointed under section 85 of the *ATIPPA, 2015* and reports to the House of Assembly through the Speaker. The Commissioner is independent of the government in order to ensure impartiality.

The Office of the Information and Privacy Commissioner (the “OIPC”) has been given wide investigative powers, including those provided under the *Public Inquiries Act*, and has broad access to records in the custody or control of public bodies in relation to matters which the Commissioner is empowered to review.

If the Commissioner considers it relevant to an investigation, he may require any record, including personal information, which is in the custody or control of a public body to be produced for his/her examination. This authority provides the citizens of the Province with the confidence that their rights are being respected and that the decisions of public bodies are held to a high standard of openness and accountability. While most citizens are prepared to accept that there may be instances of delays by public bodies, and that there may also be mistakes and misunderstandings, they also expect that such problems will be rectified with the help of this Office when they occur.

The purposes of the *Personal Health Information Act* (the “PHIA”) are accomplished by:

- 1** establishing rules for the collection, use and disclosure of personal health information to protect the confidentiality of the information as well as to protect individual privacy;
- 2** giving the public a right of access to personal health information about themselves;
- 3** giving the public a right to request correction or amendment of that information;
- 4** establishing measures to ensure accountability by custodians and to safeguard the security and integrity of personal health information;
- 5** providing for independent review of decisions and resolution of complaints respecting personal health information; and
- 6** establishing measures to promote compliance with *PHIA* by custodians.

The Personal Health Information Act

Health Information
a Private Matter



On April 1, 2011 the *Personal Health Information Act (the PHIA)* was proclaimed into force. Newfoundland and Labrador's *PHIA* is a law which establishes rules regarding how your personal health information is to be handled. *PHIA* governs information held by custodians of your personal health information, whether in the public sector or the private sector. Most personal health information is considered to be in the control or custody of a custodian and is therefore covered by *PHIA*.

Major Custodians

- Eastern Health, Central Health, Labrador-Grenfell Health, and Western Health, Newfoundland and Labrador Centre for Health Information.
- Regulated health professionals in private practice, such as doctors, dentists, pharmacists, physiotherapists, chiropractors, and registered massage therapists.
- The Faculty of Medicine and the Schools of Nursing, Pharmacy, and Human Kinetics and Recreation at Memorial University.

PHIA recognizes that you expect your health information to remain confidential and that it should only be collected, used or disclosed for purposes related to your care and treatment. However, *PHIA* also acknowledges that personal health information is sometimes needed to manage the health care system, for health research and for other similar purposes. Furthermore, law enforcement officials, health officials and others may also have a legitimate need to access personal health information, under limited and specific circumstances.

If you wish to access your personal health information, or if you have an inquiry about how your personal health information is being collected, used or disclosed, you may contact your health care provider. For more information about *PHIA*, visit the *PHIA* web page of the Department of Health and Community Services at www.health.gov.nl.ca/health/phia.

The Commissioner's Office investigates privacy breach complaints and other complaints about how personal health information has been improperly collected, used, disclosed or otherwise mishandled by a custodian. The Commissioner also investigates complaints on the basis that a custodian has refused to provide a copy of an individual's personal health information to the individual, or refused to correct an error in an individual's personal health information record.

.....○
***PHIA** balances your right to privacy with the legitimate needs of persons and organizations providing health care services to **collect, use and disclose** such information.*



If you believe on reasonable grounds that a custodian has contravened or is about to contravene a provision of the *PHIA* in relation to your own personal health information or that of another individual, you may file a complaint with the Commissioner.

If you wish to file a complaint with the Commissioner, we ask that you use the forms which are available from our Office or our website at www.oipc.nl.ca/guidance/forms.

Complaints may be mailed, dropped off, or sent by fax or email. Those sent by email must contain a scanned copy of a signed and dated complaint form, otherwise they will not be accepted.

Upon receipt of a complaint, the Commissioner will attempt to resolve the matter informally. If this is not successful, a formal review may be conducted. There is no cost to file a complaint with the OIPC.



Accessing Information

ATIPPA, 2015

It should not be a difficult process for individuals to exercise their right of access to records in the custody or control of a government department or other public body covered by the *ATIPPA, 2015*. Many people are seeking records containing information which may be handled without a formal request under the access legislation. This is referred to as routine disclosure and I am pleased to report that more and more information requests are being dealt with in this timely and efficient manner. Where the records are not of a routine



nature, the public has a legislated right of access under the *ATIPPA, 2015*. Visit our website www.oipc.nl.ca for information on how to make an Access to Information Request to a public body and how to file a complaint with the OIPC.

PHIA

PHIA also grants individuals a right of access to information, but under *PHIA* this is only a right of access to the individual applicant's own personal health information. Under specific circumstances as outlined in section 7, typically where the individual is not able to exercise their own rights, the right to request access to this information (as well as other rights under *PHIA*) can be exercised by a representative of the individual. The provisions which allow a custodian to refuse access to the requested information are limited, and the situations in which these provisions would apply occur relatively infrequently. Unless one of those provisions apply, any individual who requests access to their own personal health information should expect to get it, although as with *ATIPPA, 2015*, a reasonable fee may apply. Just as with the *ATIPPA, 2015*, any individual who is refused access to their own personal health information, may file a complaint with the Commissioner. Visit our website www.oipc.nl.ca for information on how to file a complaint with the OIPC.

PHIA will undergo its first five year statutory review in 2016. The OIPC has been working on its contribution to this review from early December 2015 to March 31, 2016 and that work continues.

Withholding Information

ATIPPA, 2015

While the *ATIPPA, 2015* provides the public with access to government records, such access is not absolute. The Act also contains provisions which allow public bodies to withhold certain records from disclosure. The decision to withhold records by governments and their agencies frequently results in disagreements and disputes between applicants and the respective public bodies. Although applicants are empowered to appeal directly to the Supreme Court Trial Division, the most common route for applicants in such cases is to the OIPC.



Complaints Range From

- being denied the requested records;
- being told there are no responsive records;
- being requested to pay too much for the requested records;
- not being assisted in an open, accurate and complete manner by the public body; and
- other problems related to the *ATIPPA, 2015* process.

The Commissioner and his staff rely primarily on negotiation to resolve most disputes, with his impartial and independent status being a strong incentive for public bodies to abide by the legislation and provide applicants with the full measure of their rights under the Act. As mentioned, there are specific but limited exceptions to disclosure under the *ATIPPA, 2015*. There are two types of exceptions, mandatory and discretionary, as described in sections 27-41 of *ATIPPA, 2015*.

PHIA

PHIA contains very limited provisions allowing a custodian to refuse access to a record of an applicant's personal health information. As with *ATIPPA, 2015*, the basis for a decision to refuse access to a record may be either mandatory or discretionary, as described in section 58 of *PHIA*.

Role of the Commissioner

As stated in the report of the 2014 Statutory Review of the *Access to Information and Protection of Privacy Act*, “The strength, independence and expertise of the Office of the Information and Privacy Commissioner are among the key ingredients in a democratic society where transparency in the public sector and privacy for individuals are cherished values. To wield these capabilities, the Office would need to be recast on a firmer foundation with a broad array of enforceable powers and a clear mandate to take action on its own initiative”. *ATIPPA, 2015* has achieved this.

In accordance with the provisions of the *ATIPPA, 2015*, when an applicant makes a request for access to a record and is not satisfied with the resulting action or lack thereof by the public body, he or she may ask the Commissioner to review the decision, act or failure to act relating to the request. The Commissioner and this Office therefore have the key role of being charged by law with protecting and upholding access to information and protection of privacy rights under the *ATIPPA, 2015*.

Although this Office does not have enforcement or order power, the hybrid model resulting from the review and embedded in *ATIPPA, 2015*, has features of both the Ombuds and order making models. The hybrid model essentially reverses the former requirement for an applicant to file with the courts if a public body chose not to follow the Commissioner’s recommendation(s). The onus now rests with the public body to apply to the courts for a decision not to follow the Commissioner’s recommendations.

Since *ATIPPA, 2015* was proclaimed into force on June 1, 2015, the trend has been for public bodies to accept and follow the recommendations made by the Commissioner. The only challenges that have been received are those of a number of third parties who have opted to file with the courts to prevent the various public bodies from releasing information that they feel is protected by the Act.

.....○
*The key tenet of our role is to keep the lines
of communication with custodians,
complainants, public bodies and affected third
parties **open, positive, and productive.***

In accordance with the provisions of the *PHIA*, the Commissioner has broad authority to oversee this important law. The Commissioner may exercise his powers and duties under *PHIA* by:

- reviewing a complaint regarding a custodian's refusal of a request for access to or correction of personal health information;
- reviewing a complaint regarding a custodian's contravention or potential contravention of the Act or regulations with respect to personal health information;
- making recommendations to ensure compliance with the Act;
- informing the public about the Act;
- receiving comments from the public about matters concerning the confidentiality of personal health information or access to that information;
- commenting on the implications for access to or confidentiality of personal health information of proposed legislative schemes or programs or practices of custodians;
- commenting on the implications for the confidentiality of personal health information of using or disclosing personal health information for record linkage, or using information technology in the collection, storage, use or transfer of personal health information; and
- consulting with any person with experience or expertise in any matter related to the purposes of this Act.



ATIPPA, 2015 Review

In early 2014, the then Premier Tom Marshall, decided to assemble a Review Committee to conduct the second, five year mandatory ATIPPA review, two years earlier than the established due date. The committee conducted its comprehensive review beginning in May 2014 and produced its report, numerous recommendations and draft legislation that was submitted to the Minister responsible and released to the public on March 2, 2015.

Based on the scope and magnitude of the recommended changes and additions to the legislation, the role, mandate and functions of the Office were significantly changed. The new legislation saw the Office of the Information and Privacy Commissioner transition from solely an arms length investigative body to one that sees the OIPC perform the role of an advocate for the release of information while at the same time, ensuring that information in the custody and control of public bodies is appropriately protected.

New Functions Arising from ATIPPA, 2015

The mandate, roles and functions arising from the Review Committee report and subsequent legislation are listed below:

1. Privacy Breach - Mandatory Reporting to OIPC, section 64(4)
 - a. Develop form of reporting
 - b. Administrative tracking
 - c. Reviewing, spotting trends and drawing conclusions regarding training needs
2. Research, section 95(1)(e)
 - a. Social media and government
 - b. Impact of developments in technology
 - c. Guidelines/publications
3. Education – Guideline documents for Applicants, Public Bodies, Third Parties and the Public, section 95(2)(b)
 - a. Applicants and Third Parties – investigation process guideline and rights documents
 - b. Guidance on previous recommendations of the OIPC regarding specific provisions of the Act
 - c. Public Bodies – guidance, in particular, on their responsibilities under the Act and their duty to assist.
4. Privacy Impact Assessment reviews for Common or Integrated Programs or Services, section 72(4)
 - a. Educational component for OIPC
 - b. Develop guidance documents arising out of PIA review experience

5. Develop expertise: Auditing Public Bodies' Compliance with ATIPPA, section 95(1)(b)
 - a. OIPC will require education regarding technology and keeping current on technology development
 - b. Jurisdictional review regarding standards used
 - c. Develop guidance documents based on audit experience
6. Own Motion Privacy Investigations, section 73(3)
 - a. Develop policy regarding and criteria for undertaking
 - b. Determine procedure and expected outcomes
7. Publication Scheme – Template Development, section 111
 - a. Review of personal information currently held by Public Bodies
 - b. Research on how publication schemes are constructed in other jurisdictions
8. Oversight of Duty to Document under the *Management of Information Act* (pending amendment to the *Management of Information Act*), Recommendation 80
9. Consultation on Draft Legislation, Recommendation 66(e)
10. Develop Guidelines for Approvals to Disregard Access Requests, section 21
 - a. Policy development
 - b. Communication/Education
11. Develop Guidelines for Approvals on All Time Extensions, section 24
 - a. Policy development
 - b. Communication/Education
12. Develop Guidelines for Public Interest Override, Recommendation 11
 - a. Jurisdictional scan
 - b. Guidance manual
 - c. Communicate with Clerk of Executive Council re: development of policy
 - d. Communication/Education
13. Filing at Court, sections 50 and 51
 - a. Develop policies and procedures regarding the Court process for OIPC
 - b. Review and educate ourselves on the process for public bodies, applicants and third parties proceeding to Court
14. Develop Guidelines for Authorizing Collection of Personal Information from Sources Other than the Person, section 95(1)(c)
 - a. Research
 - b. Drafting guidelines
 - c. Communication/Education

15. Special Reports to Legislature (including noting when resources required to meet Act requirements), section 106
 - a. Criteria development
 - b. Drafting and presentation in person
 - c. Analyzing trends
16. Streamlining the OIPC Process, section 95(2)(k)
 - a. Drafting timeline
 - b. Administrative changes to TRIM
 - c. Internal discussion regarding implementation
 - d. Policy Development
 - e. Development of new report format
17. Develop Guidelines for Public Bodies on How to Process Requests where Estimates Exceed Free Hours, Recommendation 7
 - a. Jurisdictional scan/research
 - b. Draft Guidelines
 - c. Communication/Education
18. Transition from solely an Oversight Body into an Advocacy Body as well, section 3(2)(f)(i)
 - a. Rebranding the OIPC
 - b. Publication of rebranding/new role
19. Work on *Municipality Act*, Recommendations 71 and 72
 - a. Participate in the Municipal Working Group with Department of Municipal and Intergovernmental Affairs, the Office of Public Engagement, Municipalities Newfoundland and Labrador, and others to develop standard for public disclosure
 - b. Help revise *Municipalities Act*
 - c. Develop training with respect to same
20. Update “Preparing for a Review” Guidelines, sections 42 and 44
 - a. Creating a guideline for Third Parties
 - b. Updating the guidelines for Applicants and Public Bodies
21. Provide a Time Analysis of OIPC Complaints, Recommendation 6B

The two tables in Appendix “A” are included as a result of this recommendation and show, for the fiscal year 2015-16, the timelines within which the OIPC resolved access complaint files, both informally and formally. The first table shows the timelines for files closed under *ATIPPA*, 2015 and the second table shows the timelines for files closed under *ATIPPA*.

Privacy Impact Assessment

A privacy impact assessment (PIA) identifies and evaluates the potential effects on privacy of a project, initiative, or proposed system or scheme. In general, it is best practice to conduct a preliminary PIA (PPIA) prior to starting a full PIA; the information contained in the PPIA will indicate whether a full PIA report is needed.

Recent changes to the *ATIPPA, 2015* require departments and the executive branch of government to complete a PIA or PPIA during the development of a program or service. Further, if the PIA involves a common or integrated program or service, it must be submitted to the OIPC for the Commissioner's review and comment. As the *ATIPPA, 2015* does not define a common or integrated program or service, the OIPC has adopted a definition similar to the one in Schedule 1 of British Columbia's *Freedom of Information and Protection of Privacy Act*:

“common or integrated program or service” means a program or service that

- a) provides one or more services through
 - (i) a public body and one or more other public bodies or agencies working collaboratively, or
 - (ii) one public body working on behalf of one or more other public bodies or agencies

This Office reviewed three PPIAs in 2015-2016. While none of the public bodies identified their program or service as common or integrated, they recognized the value in having the OIPC review and comment on their assessment prior to program deployment. The OIPC welcomes the opportunity to review and provide comments on any PIA or PPIA that is conducted by a public body.

One full PIA involving a Registry was reviewed by this Office for compliance with *PHIA*. Again, although not legislatively required to seek OIPC review, such review presents an opportunity to open a dialogue and for this Office to become familiar with the privacy program and the specific Registry detailed in the report.

OIPC Audit and Compliance Program

Once the *ATIPPA, 2015* was proclaimed in force on June 1st, the OIPC began development of an Audit and Compliance Program to assess the extent to which public bodies are protecting personal information and complying with access provisions of the *ATIPPA, 2015*.

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, the OIPC will consider such factors as the number of individuals potentially affected, the nature and sensitivity of the personal information being processed, and the nature and extent of any likely damage or distress caused by non-compliance when identifying subjects and entities for audit.

In the fourth quarter of 2015-2016, the OIPC launched its first audit. The audit is examining the physical safeguards being employed in one Division of a public body. The results of the audit will be published once the final report has been completed.

Work has also begun on a three year audit plan, identifying potential topics and public bodies for audit.

Mandatory Privacy Breach Reporting

Another significant change in the legislation was mandatory privacy breach reporting. Section 64(4) of the *ATIPPA, 2015* makes it mandatory for all public bodies to report all privacy breaches to the OIPC. A privacy breach occurs when personal information is inappropriately collected, used or disclosed; information is lost, stolen, mistakenly disclosed; or information is accessed without a legitimate work purpose.

This change was recommended by Chair Clyde Wells in the Report of the 2014 Statutory Review of the *ATIPPA* who stated:

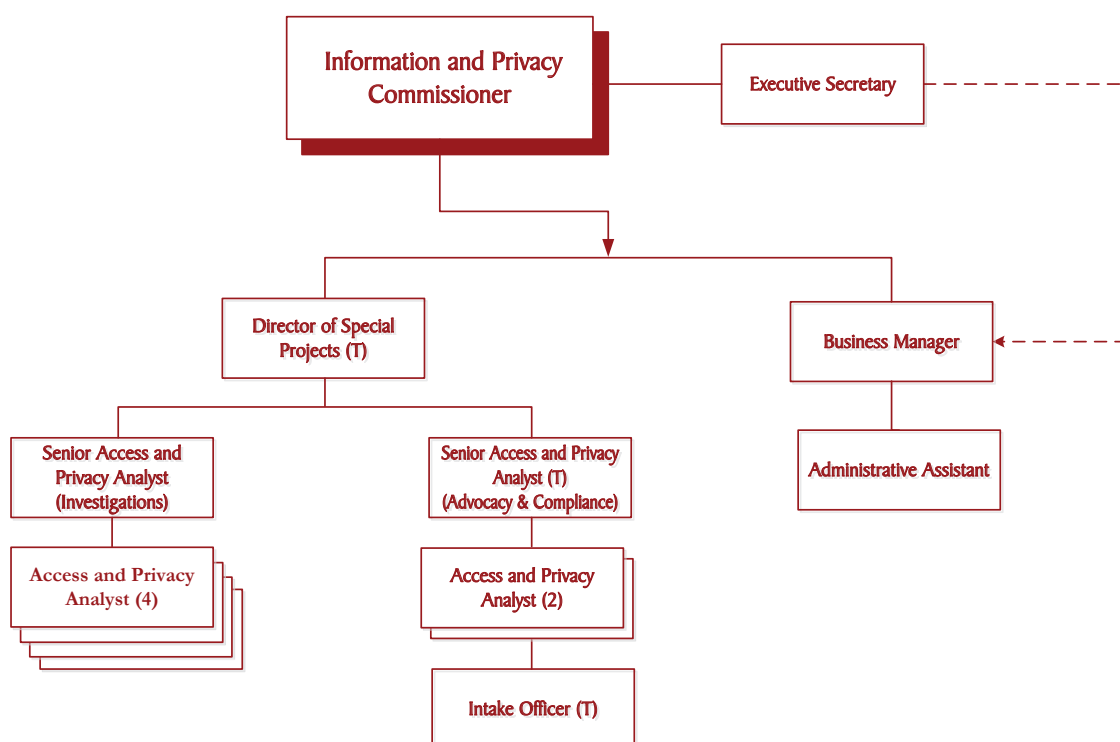
“Since relatively few data breaches from public bodies are documented, the optimal requirement would be to report all breaches to the Commissioner, who could recommend any necessary follow up, notification of the affected parties if that has not already been done, preventative measures for the future, and so on.”

Mandatory breach reporting also allows the OIPC to get a clearer picture of the privacy landscape in the Province and enables us to spot trends with respect to the types of privacy breaches that are occurring, and where the most breaches are happening. This enables the Office to identify public bodies that may require additional training or education, as well as specific subject areas or issues that may need to be addressed across all public bodies.

Staffing

The OIPC staffing level at the time the Review Report was released was 12 permanent positions. It was identified quickly that the current staffing and funding for the OIPC was not sufficient to fulfill the very broad and expanded mandate imposed by the new legislation, *ATIPPA, 2015*. Work began in March/April 2015 on a proposed restructure for the OIPC that was subsequently submitted to the House of Assembly Management Commission (HOAMC) for consideration and decision.

The proposed structure would see the creation of four new positions as follows: Assistant Commissioner; Senior Access and Privacy Analyst, (Advocacy and Compliance); Intake Officer; and Administrative Assistant. As well it would see the reclassification of the existing Senior Access and Privacy Analyst to Senior Access and Privacy Analyst (Investigations). The new structure would also see the abolishment of one current position, the Mediation, Communications and Policy Analyst. The original OIPC submission to the HOAMC was made in May 2015 and subsequently amended by the Commissioner and resubmitted on July 7, 2015. Several appearances before the HOAMC occurred and on November 6, 2015 the Commission approved the new structure, less the creation of an Administrative Assistant position. Although the positions have been approved, regrettably, to date authority to advertise and fill the positions has not been granted by the HOAMC. Currently, our Office has three temporary positions and these will continue until the Management Commission next convenes to consider the matter.



Outreach and Statistics

Education and Awareness

The reporting period from April 1, 2015 to March 31, 2016 was our first period with the full educational mandate of the *ATIPPA, 2015*. Our staff has been busy implementing the requirements in sections 95(2)(b) and (g) that this Office:



- (b) develop and deliver an educational program to inform people of their rights and the reasonable limits on those rights under the Act and to inform public bodies of their responsibilities and duties, including the duty to assist, under this Act;*
- (g) take actions necessary to identify, promote, and where possible cause to be made adjustments to practices and procedures that will improve public access to information and protection of personal information.*

Since receiving this explicit education mandate under *ATIPPA, 2015* this Office has issued ten guidance documents, on such topics as: how to interpret an exception under the Act; how to interact with this Office when seeking approval to disregard a request or for an extension of time; and, our review criteria for privacy impact assessments. We have also published four newsletters and one municipal privacy bulletin, which have been made available to all coordinators in the Province. All publications are available on our website www.oipc.nl.ca

Staff at our Office have been invited to deliver over nineteen training sessions during this period as well. Public bodies greatly appreciate any assistance and guidance this Office can offer on the correct interpretation of the Act. These sessions have also included several school presentations about privacy and social media.

While the guidance and newsletter efforts have been primarily focused on educating public bodies, we have also created three brochures for the public. The first of these brochures introduces our Office to the public, explaining who we are and what we do, including our authority to investigate complaints, provide education, audit public bodies and ensure compliance with the Act. The second brochure explains the Access to Information process, including: the rights of members of the public; what information they are entitled to access; and, how to make an access request and what they can expect including the review process by this Office. The third brochure explains Privacy to citizens, highlighting: what personal

information can be collected; who may collect it; how it can be used; how the personal information should be protected; when it can be disclosed; how to correct personal information held by public bodies and how to make an access or correction request, including the review process by this Office. An article on the *ATIPPA, 2015* from our Office was also published in the winter 2016 edition of the Institute of Municipal Assessors' newsletter.

While the educational mandate under the *PHIA* is unchanged, we did increase the number of presentations made to custodians by this Office in this year over previous years. We had the opportunity to meet with the Registered Occupational Health Nurses Association in October, 2015 and with the upcoming class of Medical Administration Specialists at Eastern College in January, 2016. We also released a Privacy Checklist for Custodians in December 2015 which was shared with the Newfoundland and Labrador Medical Association, the Pharmacists' Association of Newfoundland and Labrador, Newfoundland and Labrador Massage Therapists Association and the Newfoundland and Labrador Chiropractic Association for distribution to their members. This checklist also came with an offer from this Office to do site visits with custodians so that we could assist them with their self-assessment.

Consultation/Advice

This Office continues to receive numerous inquiries and requests for advice and consultation. In response, our staff routinely provides guidance to individuals, organizations, public bodies and custodians.

We consider this to be an important aspect of our overall mandate and we encourage individuals and organizations to continue seeking our input on access, privacy, and personal health information matters. There may be times when we are unable to advise on a specific situation if it appears that the matter could subsequently be brought to the OIPC for investigation or review, however, if that is the case, we can still offer information about the applicable legislation and the complaint or review processes.

2015-2016 Statistics

Statistical breakdown for this reporting period can be found on our website www.oipc.nl.ca.

Privacy

ATIPPA, 2015

ATIPPA, 2015 was a significant upgrade in terms of privacy protection and the oversight role of the Commissioner.

Among the features of the new law are the following provisions:

1 Public Bodies must report all privacy breaches to the Commissioner;

2 Public Bodies must notify affected individuals of privacy breaches when there is a risk of significant harm;

3 Public Bodies which are a Department or branch of Executive government are required during the development of any program or service to conduct a Privacy Impact Assessment (PIA) or a Preliminary Privacy Impact Assessment (PPIA) indicating that a full PIA is not necessary;

4 Privacy Impact Assessments by a Department or branch of Executive government involving a common or integrated program or service must be submitted to the Commissioner for review;

5 The Commissioner is empowered to authorize the collection of personal information from sources other than the individual;

6 When **the Commissioner** issues a privacy Report which recommends that a public body destroy personal information or stop collecting, using or disclosing personal information, the head of the public body must either follow the recommendation or seek a declaration in the Trial Division that it is not required to follow the recommendation. If the public body fails to do either, the Commissioner may file his or her recommendations as an order of the court.

Some other features of the new Act which are not solely focused on privacy but will have significant impact on how the Commissioner carries out the privacy oversight role are:

- the Commissioner may audit public bodies on compliance with the ATIPPA, 2015 (such an audit may include compliance with the access to information provisions, but in practice will often focus on compliance with the privacy provisions);
- Government must consult with the Commissioner prior to a bill being introduced in the House which could affect access or privacy rights.

In the past year, the OIPC has been receiving privacy breach reports from public bodies. At this point it is difficult to be certain that all public bodies are reporting all breaches, but certainly most of the major ones seem to be doing so. We have been working to get the message out that this is not only a requirement of the new Act, but that the opportunity to discuss breaches with the OIPC can be very helpful to public bodies. The OIPC has been compiling and releasing quarterly statistics on the types of breaches and the public bodies involved, and we intend that this will serve as the basis for targeted training, communications and policy development, with the goal of preventing or reducing the occurrence rate of such breaches. This process also provides an opportunity for the OIPC to engage with public bodies on their breach notification to affected individuals – the threshold for deciding to notify, how and when to notify, etc. It has also been an excellent opportunity to build a rapport and support public bodies in the development and implementation of their privacy programs.

The OIPC has developed a Privacy Impact Assessment (PIA) Guidance Document for public bodies as well as a document outlining the criteria that the OIPC would apply to any PIA reviewed by this Office. These are available on our website for public bodies to access and we encourage them to use these resources.

The OIPC has invested significant efforts in developing an audit program, and has begun its first audit of a public body. The results will be released publicly during the next reporting period. An audit provides an assessment of whether a public body is following good personal information protection, access and correction practices. 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.

Prior to the *ATIPPA, 2015*, Government consulted the Commissioner from time to time on planned legislative initiatives or draft bills which could affect access or privacy, but it was an ad hoc practice at best. Since the *ATIPPA, 2015*, the Commissioner has been consulted on a number of draft bills. We have found this process to be a very positive one with significant value for the protection of access and privacy rights of citizens, and by all indications our comments have been carefully considered and generally well received.

PHIA

PHIA is part of a new generation of privacy laws which have recently evolved in jurisdictions across Canada. All of the personal health information held by private sector custodians, from dentists to pharmacists, to doctors in private practice, to ambulance services, and many more, is now governed by *PHIA*. The other major effect of *PHIA* is that all of the personal health information held by public sector custodians (including Eastern Health, Western Health, Labrador-Grenfell, and Central Health) falls under *PHIA* rather than *ATIPPA, 2015*.



In the time leading up to the proclamation of *PHIA*, this Office was involved in extensive discussions and committee work with the Department of Health and Community Services and many other stakeholders to ensure that all of the ingredients were in place to help custodians comply with *PHIA*. That work has continued since the proclamation of *PHIA*. We continue to be available to meet with the professional colleges, boards and associations representing the many registered health professionals in the Province in order to educate these organizations about the law which now applies to their members. Each time we issue a Report under *PHIA*, we send a copy by email to all of these boards and associations. We have had the opportunity to address issues of mutual concern cooperatively with organizations such as the Pharmacy Board and College of Physicians, and we continue to provide presentations about *PHIA* and the role of the OIPC at the request of boards and associations at Annual General Meetings and professional development sessions.

Since *PHIA* proclamation, we have developed an excellent rapport with some of the largest custodians of personal health information, namely the four Regional Health Authorities, listed above. *PHIA* requires that they notify the Commissioner's Office in the event of a "material" or serious breach as defined in the *PHIA* regulations. Our experience has been that while these custodians have been notifying us of material breaches, they have also been informing us of less serious breaches on occasion, and also engaging our expertise to discuss policy development, breach response, and to consult with us on the decision of whether and how to notify individuals who have been affected by a breach. We believe this process is working well so far, and we look forward to continued cooperation with these custodians.

We are also engaged with the Regional Health Authorities in other ways. In addition to our regular interactions relating to breach notification, we also look for their cooperation in the event of a complaint which requires investigation. Usually in such cases, there has been a breach or alleged breach of *PHIA*, and an individual has filed a complaint with the OIPC asking that we investigate. Our experience to date is that the Regional Health Authorities have been cooperative and helpful during our investigations, and are fully engaged in trying to improve their policies and procedures in order to prevent future breaches and to meet the expectations set out by *PHIA*.

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One important feature of *PHIA* is that it is required to be reviewed every five years.
*The five year anniversary of the coming into force of *PHIA* is April 1, 2016.*

At the time of writing this Report, we have had the benefit of several discussions with the Department of Health and Community Services about the planned review of *PHIA*, and we expect in the very near future to be notified of the start of the *PHIA* review process. Although the current law has served the public well, the OIPC takes the position that some improvements can be made, and we look forward to participating in the review process.



Access and Privacy Investigation Summaries

In previous years this Report has included summaries of individual Commissioner's Reports. This year there will be a general summary for the Commissioner's Reports with a focus on the trends that have emerged throughout the year.

The major trend for this year was the receipt in this Office of access complaints from third parties who received a notice under section 19(5) of the *Access to Information and Protection of Privacy, 2015 (ATIPPA, 2015)*, which provides:

- (5) *Where the head of a public body decides to grant access to a record or part of a record and the third party does not consent to the disclosure, the head shall inform the third party in writing;*
 - (a) *of the reasons for the decision and the provision of this Act on which the decision is based;*
 - (b) *of the content of the record or part of the record for which access is to be given;*
 - (c) *that the applicant will be given access to the record or part of the record unless the third party, not later than 15 business days after the head of the public body informs the third party of this decision, files a complaint with the commissioner under section 42 or appeals directly to the Trial Division under section 53 ; and*
 - (d) *how to file a complaint or pursue an appeal.*



Several of the access complaints received related to access to information requests for records related to tender bids submitted to public bodies. Those who filed the access to information requests in these matters were seeking copies of records related to submitted tender bids. The persons who submitted the tender bids were then notified by the public bodies in accordance with section 19(5) of the decision to grant access to the requested records. In response to the notice under section 19(5) the persons who submitted the bids filed third party access complaints to our Office in accordance with section 42(3), which provides:

(3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.

The issue in these third party access complaints as addressed in our Reports was the application of section 39 which deals with disclosure of information harmful to the business interest of a third party. Section 39(1) which provides:

39. (1) The head of a public body shall refuse to disclose to an applicant information

- (a) that would reveal*
 - (i) trade secrets of a third party, or*
 - (ii) commercial, financial, labour relations, scientific or technical information of a third party;*
- (b) that is supplied, implicitly or explicitly, in confidence; and*
- (c) the disclosure of which could reasonably be expected to*
 - (i) harm significantly the competitive position or interfere significantly with the negotiating position of the third party,*
 - (ii) result in similar information no longer being supplied to the public body when it is in the public interest that similar information continue to be supplied,*
 - (iii) result in undue financial loss or gain to any person, or*
 - (iv) reveal information supplied to, or the report of, an arbitrator, mediator, labour relations officer or other person or body appointed to resolve or inquire into a labour relations dispute.*

Section 39(1) contains a three-part test as set out in paragraphs (a), (b) and (c). The original *Access to Information and Protection of Privacy Act* contained this three-part test but it was removed from the original version with the enactment of Bill 29 on June 27, 2012. The

three part test was restored on the recommendation of the *Report of the 2014 Statutory Committee on Access to Information and Protection of Privacy Act* and enacted as section 39(1) in the *Access to Information and Protection of Privacy Act, 2015* on June 1, 2015.

The Commissioner's Reports on section 39(1) have determined consistently that in order for information related to tender bids to be excepted from disclosure under that section, all three parts of the test must be met, and failure to meet any of the three parts of the test will result in the inapplicability of section 39.

The Commissioner's Reports on section 39(1) have found that in relation to a successful tender bid that information generally becomes part of a negotiated contract between the public body and the bidder and is, therefore, not "supplied" within the meaning of section 39(1)(b). As a result, information regarding a successful tender bid made to a public body has generally been determined not to meet this part of the three-part test.

In relation to proof of harm under part three of the test as set out in section 39(1)(c), the Commissioner's Reports have determined that there must be detailed and convincing evidence to prove the harm. The assertion of harm must be more than speculative and the third party must establish a reasonable expectation of probable harm.

The Commissioner's Reports have noted the onus of proof under section 39 where the third party has filed an access complaint. Section 43(3) of *ATIPPA, 2015* deals with the burden of proof where a third party has filed an access complaint:

(3) On an investigation of a complaint from a decision to give an applicant access to a record or part of a record containing information, other than personal information, that relates to a third party, the burden is on the third party to prove that the applicant has no right of access to the record or part of the record.

The following Reports dealt with section 39: The following Reports dealt with section 39: A-2015-002, A-2015-004, A-2015-005, A-2015-009, A-2015-002, A-2016-001, A-2016-002, A-2016-001, A-2016-003 and A-2016-004.

In addition to issues relating to section 39, this Office also released two notable privacy reports. One was Report P-2015-001 involving the Labour Relations Board. The complainant alleged that the Board inappropriately disclosed his personal information when it published a written decision containing his name. The Commissioner found that the Labour Relations

Board failed to comply with sections 33 and 36 of the *ATIPPA* (pre-*ATIPPA, 2015*) and made several recommendations to avoid such situations in the future. The Report also reviewed a number of best practices from jurisdictions across the country and explored ways to balance the open court principle with privacy protection. A published Report was issued because there are a number of administrative tribunals operating in the Province which may be grappling with similar issues, particularly in the age of online publication of decisions, and it is hoped that this Report may be of some assistance to them as well as the Labour Relations Board.

The other privacy matter was dealt with in Report P-2015-002 involving the Royal Newfoundland Constabulary (the “RNC”). The complainant submitted a privacy complaint under the *ATIPPA, 2015* in respect of a privacy breach whereby information in the control and custody of the RNC about the complainant had been accessed by an RNC employee without a valid reason. The RNC also submitted a Privacy Breach Incident Report in relation to this matter. Additionally the RNC submitted two other Privacy Breach Incident Reports to this Office related to two other incidents of inappropriate access by employees which occurred this year. The Commissioner initiated an investigation on his own motion into these two events. Given the related issues and the possibility of a systemic problem within the RNC, the Commissioner decided to respond to all three matters collectively. The Commissioner found that the RNC had some administrative, technical and physical safeguards in place to protect personal information from unauthorized access; however, it was clear from these recent incidents that these mechanisms had not been fully absorbed, implemented and understood by RNC staff. The Commissioner found that the RNC must now go further in developing and employing these protections so that they are as strong as reasonably possible and, additionally, so that employees fully appreciate the importance of the issue. The Commissioner made several recommendations to assist the RNC in preventing such situations in the future. The recommendations include taking additional steps to monitor access both in terms of providing and removing access to the information system based on professional roles and implementing an on-going, robust random auditing program. It would also include protocols to ensure that information is securely maintained.

Court Proceedings



The following are summaries of several of the proceedings in Supreme Court of Newfoundland and Labrador Trial Division and Court of Appeal in which this Office was involved during the period of this Annual Report.

2014 01H 0085 – Corporate Express Canada Inc., trading as Staples Advantage Canada v. Memorial University of Newfoundland, OIPC as Intervenor, Dicks and Company Limited as Intervenor, Supreme Court of Newfoundland and Labrador, Court of Appeal

This matter began with an access request to Memorial University (“Memorial”) by Dicks and Company Limited (“Dicks”) requesting records relating to a tender for the provision of office supplies to Memorial. Memorial advised Dicks that it was denying access on the basis of section 27 (disclosure harmful to the business interest of a third party).

Dicks filed a Request for Review under the previous *Access to Information and Protection of Privacy Act (ATIPPA)* resulting in the release of Report A-2013-009 in which the Commissioner recommended the release of the requested information. Corporate Express, as a Third Party, filed an appeal to the Supreme Court of Newfoundland and Labrador, Trial Division (2013 01G 3476 – which was reported on in last year’s Annual Report). The Trial Division dismissed the appeal of Corporate Express and Corporate Express appealed to the Court of Appeal.

The Court of Appeal dismissed the appeal by Corporate Express. In its decision, the Court of Appeal stated that the provisions of the *ATIPPA* were enacted for the purposes of making public bodies more accountable. The Court said the Trial Judge did not err in ruling that the requested information was not excepted from disclosure as information supplied in confidence within the meaning of section 27(1)(b) of the *ATIPPA*.

The Court of Appeal agreed with the Trial Judge that in order to substantiate a claim under section 27(1)(c) that disclosure of the requested information would cause Corporate Express significant financial loss or harm its competitive position, there must be some empirical, statistical or financial evidence and no such evidence was provided by Corporate Express.

The Court of Appeal indicated that disclosure of the requested information would put prospective tender bidders on a more equal footing and this would ultimately make Memorial University, as a public institution, more accountable in its expenditure of public monies. Accordingly, the Court dismissed the appeal, affirmed the order of the Trial Judge awarding Dicks costs in the Trial Division and in the Court of Appeal.

2014 01G 2102 OIPC v. Eastern Health, Supreme Court of Newfoundland and Labrador, Trial Division

This matter began with a denial of access to information by Eastern Health on the basis of section 21 (solicitor and client privilege).

This proceeding is an appeal by the Commissioner under section 60 (1.1) of the previous *Access to Information and Protection of Privacy Act* which allowed the Commissioner to appeal a decision of a public body refusing to disclose a record on the basis of solicitor and client privilege under section 21.

It was necessary to proceed with this matter by way of an appeal to the Trial Division because amendments to the *ATIPPA* in Bill 29 removed the Commissioner's power to do a review of a public body's decision to deny access on the basis of the solicitor and client exception to disclosure. The only remedy at the time for an access to information applicant who had been refused access on the basis of a claim of solicitor and client privilege was for the applicant to appeal the decision of the public body directly to the Trial Division under section 60(1.1) or request the Commissioner to launch such an appeal. (The new *ATIPPA, 2015* now allows an access to information applicant who is denied access on the basis of solicitor and client privilege to file an access complaint with the Commissioner.)

The Court discussed the principles applicable to a determination of solicitor and client privilege and litigation privilege, reviewed the records and identified the information to which either of the privileges attached. The Court determined that because the litigation in question had been dormant for over three years, any and all claims for litigation privilege must fail.

In relation to solicitor and client privilege, the Court stated that each document must be objectively assessed as to whether it meets the required criteria. The Court noted the absence of evidence on the context and circumstances of the creation of each document. The Court ruled that certain of the documents were subject to solicitor and client privilege and outlined those documents in a schedule attached to the decision. The Court ordered all non-privileged documents to be released to the Commissioner after 30 days for a determination as to whether any other exceptions to disclosure may apply to the information in the documents.

2013 01H 0084 Geophysical Service Incorporated v. Ed Martin, Supreme Court of Newfoundland and Labrador

This proceeding involves an application for leave to appeal the Trial Division decision given by Mr. Justice Robert Hall on November 6, 2013 and reported as *Geophysical Services Incorporated v. Martin*, 2013 CanLII 71082.

The matter arose as a result of an access request by Geophysical Services Incorporated (“GSI”) to Nalcor (represented by CEO Ed Martin). Nalcor refused access to certain requested information and GSI appealed that refusal to the Supreme Court of Newfoundland and Labrador, Trial Division pursuant to section 43(3) and section 60(2) of the *ATIPPA*.

The *ATIPPA* appeal was heard by Mr. Justice Robert Hall who decided the appeal should be stayed on the basis that it is premature and should not be heard until a companion action has been dealt with.

On November 18, 2013, GSI filed a Notice of Application for Leave to Appeal seeking leave to appeal the decision of Mr. Justice Hall in the Court of Appeal.

This Office applied to intervene in the proceeding in the Court of Appeal. Nalcor opposed the application to intervene.

The Court of Appeal granted the Commissioner’s application to intervene in the appeal. The Court determined that because the Commissioner has a statutory right to appeal in the Trial Division pursuant to section 61(2) of the *ATIPPA*, it had a right to intervene at any stage until the proceedings have been terminated or finally resolved. Therefore, the Commissioner had a statutory right to intervene in accordance with Rule 7.05(1)(c) of the *Rules of the Supreme Court, 1986*.

The Court further ruled that the Commissioner had a right to intervene under Rule 7.05(1)(a) as a person with an interest in the subject matter of the proceeding.

2015 NLTD(G) 177 – Hann v. Newfoundland and Labrador (Health and Community Services), OIPC as Intervenor, Supreme Court of Newfoundland and Labrador, Trial Division

This proceeding involved an appeal by an access to information applicant under section 60(1) of the *ATIPPA*, which allowed an applicant to appeal a decision of a public body not to follow a Commissioner’s recommendation to release information to the applicant.

This matter began with an access request to the Department of Health and Community Services by an applicant seeking records relating to a certain employment position within a government-funded organization, and decisions made in relation to that position. The Department denied access to all responsive records based on the exceptions set out in section 18 (cabinet confidences) and section 20 (policy advice or recommendations).

The Applicant filed a Request for Review resulting in the release of Report A-2014-001 in which the Commissioner recommended the release of the information not excepted from disclosure by section 18 or section 20.

The Department declined to follow the Commissioner's recommendation and, pursuant to section 60(1) of the *ATIPPA*, the Applicant filed an appeal in relation to the Department's decision not to follow the Commissioner's recommendation. Pursuant to section 61(2), the Commissioner became an Intervenor in the appeal.

The Court determined that the information responsive to the access request was a cabinet record within the meaning of section 18 and because section 18 is a mandatory exception to disclosure the records may not be disclosed to the Applicant.

The Court made a determination regarding the application of section 7(2) of the *ATIPPA*, which provides as follows:

(2) The right of access to a record does not extend to information exempted from disclosure under this Act, but if it is reasonable to sever that information from the record, an applicant has a right of access to the remainder of the record.

The Court determined that because section 18 refers to a cabinet "record" rather than "information", it applies to prevent disclosure of a cabinet record in its entirety. As such, section 7(2) does not apply to allow for severance and partial disclosure of any information in a cabinet record.

Follow-Up

From time to time, the OIPC designates certain files for follow-up, particularly those which may require a longer period of time before recommendations can be implemented.

A follow-up file arose out of a privacy complaint alleging that a doctor's office had improperly disclosed a patient's health information. The investigation found that the disclosure was in fact authorized under child protection legislation. However, our Office made a number of recommendations to the doctor's office, including developing and posting a privacy notice, creating a written privacy policy, including procedures for documenting disclosures of patient personal health information, and having all staff complete the *PHIA* online education program.

The follow-up found that all of the recommendations had been implemented, and in some respects exceeded. The doctor's office manager was commended for her initiative and diligence, and the file was closed.

Another follow-up file arose out of privacy breach from the Department of Advanced Education and Skills where an individual's personal information was inappropriately disclosed. The Department took appropriate action once the breach was discovered, recovered the documentation that had been inappropriately disclosed and notified the individual involved of the privacy breach. It was determined that this breach was caused by human error during a mail out process. The Department provided our Office with an update on their privacy training as well as developed and circulated a Mail-Out Procedure document which was posted in all areas and work stations where documents/information was prepared for distribution. In response to continued use of fax transmission, the Department revised the Mail-Out Procedure document to include a section on faxes and the document was circulated to staff again. The follow-up determined that the Department had followed the recommendations of this Office.

Conclusion

With the new *ATIPPA, 2015*, this reporting period has seen perhaps the greatest change to the access and privacy landscape in the Province since the introduction of the *Personal Health Information Act*. In a way, however, the change represented by this new *Act* is even greater, considering that this Province has now attained a status which has been long sought after by advocates for greater access to information and protection of privacy throughout Canada and around the world. The Centre for Law and Democracy, an internationally respected organization based in Canada, which ranks access to information laws around the world, has indicated that the new *ATIPPA, 2015* is the best law of its kind in Canada and one of the best in the world.

This assessment has been borne out in our experience over the past year. Essentially, people are getting more access to information, usually for free, and they are getting it faster than ever before. The new hybrid oversight model in which the onus is on a public body to go to court if it does not wish to follow a recommendation from one of our Reports has not even been used once. That means, so far, 100% compliance with our recommendations under the new law. Public bodies now very rarely miss their deadlines for providing access to information, and they cannot apply time extensions without the approval of this Office. Similarly, our own timelines have improved dramatically, as we strive to close all investigation files within 65 business days. This means shorter reports, which unfortunately means that the deep legislative analysis which was once contained therein is now largely absent. At the same time, however, we are working towards building a comprehensive set of guidance documents which will help public bodies to interpret and apply the *ATIPPA, 2015*.

On the privacy front, mandatory breach reporting has been a positive innovation. It has ensured that the lines of communication are always open between the Office and public bodies, and we now have our finger on the pulse of public bodies for the purpose of monitoring privacy compliance. Previous to this, we were more or less in the dark about privacy compliance unless we received a privacy complaint. Now, even though we feel that not all public bodies are fully reporting their breaches, most appear to be doing so, and we therefore have pretty accurate picture of how things are going on that front, allowing us to respond as appropriate.

Another great boon to both privacy and access promotion and protection is the requirement that government consult with the Commissioner on all new legislation that could impact access or privacy. This ensures that necessary and important questions will be asked

any time a new law is being developed which could have negative implications for these important rights, and provides an opportunity for the Commissioner to press for changes if required.

Our audit program is starting to bear fruit as well. In the next reporting period we look forward to further details on the results of our audit efforts. This allows us to take a deep dive into certain aspects of the privacy or access to information programs of public bodies in order to assess effectiveness and make appropriate recommendations for improvements as required.

Another big change this year is in our own approach to the oversight role. No more are we primarily a reactive oversight body, responding to complaints. While this is still the larger portion of our work, an almost equal proportion now is proactively helping public bodies to attain and maintain compliance, rather than simply “catching them” after the fact when there has been a problem or they have made a mistake. We do this through our advocacy and compliance function, which encompasses audit, PIA review, public body education, and similar undertakings which are now possible because of *ATIPPA, 2015*. Furthermore, the *ATIPPA, 2015* has cast the Office as not only a legislative oversight office, but also as an advocate for access and privacy. In the coming years, it is expected that the Office will take on a much more public profile in fulfilling this role, by participating in and leading public discourse on evolving access and privacy issues.

In terms of emerging issues, one big one which we will be pursuing in the coming year is the number of complaints from third party businesses about the disclosure of information by public bodies relating to their business dealings with those public bodies. Quite often this has involved disputes about the disclosure of information in contracts between public bodies and businesses for the supply of goods or services to government. One of the most basic rationales for access to information is to achieve transparency in how public bodies spend public funds. Other jurisdictions around the world, and a few across Canada, are starting to pursue “open contracting” – a concept and a process by which it is made clear up front to all who wish to do business with government that they must do so in a transparent way, which will mean a level, competitive playing field for all, and greater transparency for public expenditures. Access to information law in Canada, including in this Province, already supports this concept. The only thing left to do is make it a standard practice, rather than deal with all of the delays and expense resulting from complaints and court appeals.

In closing, I would like to thank the many fine professionals who work in the trenches in access and privacy. These are the coordinators who represent the front line of this important work. I am continually impressed by their hard work and commitment to the task, sometimes in the face of criticism from within their own organizations. Keep up the good work! I also give credit to the leadership of many public bodies out there who support these individuals, but these leaders must bear in mind that sometimes additional support is needed to help these coordinators get their work done on time. At the end of the day, bear in mind that it is your reputation they are protecting by doing their jobs so well! Finally, I would like to thank my staff at the Office of the Information and Privacy Commissioner. Their professionalism and expertise is exceptional and their hard work and dedication have ensured that the work of this Office continues to be done at the high level of quality that is required and expected.

Appendix “A”

**Timelines for Access Complaints for the 2015-2016 Reporting Period
under the Access to Information and Protection of Privacy Act, 2015**

<i>Public Body</i>	<i>Review Started</i>	<i>Days for Informal Resolution</i>	<i>Formal Review Started</i>	<i>Days for Formal Review</i>	<i>Date Complaint Closed</i>	<i>Total Days</i>
Eastern Health	2015-07-20	15	2015-08-10	13	2015-08-27	28
Eastern Health	2015-09-16	23	2015-10-20	14	2015-11-10	37
Department of Municipal and Intergovernmental Affairs	2015-10-07	29	2015-11-19	17	2015-12-14	46
Department of Municipal and Intergovernmental Affairs	2015-08-14	13	2015-09-02	39	2015-10-29	52
Eastern Health	2015-12-04	44	2016-02-09	10	2016-02-23	54
Nalcor	2016-01-08	27	2016-02-16	28	2016-03-28	55
Office of the Premier	2015-08-07	18	2015-09-02	39	2015-10-29	57
Office of the Chief Information Officer	2015-11-30	41	2016-01-29	16	2016-02-22	57
Office of the Chief Information Officer	2015-07-23	28	2015-09-01	34	2015-10-21	62
Women's Policy Office	2015-06-25	30	2015-08-07	34	2015-09-25	64
Department of Finance	2015-07-24	33	2015-09-10	31	2015-10-26	64
Department of Justice and Public Safety	2015-09-08	29	2015-10-20	35	2015-12-09	64
Department of Finance	2015-07-14	34	2015-08-31	35	2015-10-19	69
Workplace Health, Safety and Compensation Commission	2015-10-30	3			2015-11-04	3
Department of Justice and Public Safety	2015-10-28	4			2015-11-03	4
Newfoundland and Labrador Legal Aid Commission	2016-02-10	5			2016-02-17	5
Department of Business, Tourism, Culture and Rural Development	2016-02-19	7			2016-03-01	7
Human Resource Secretariat	2015-07-29	7			2015-08-07	7
Department of Justice and Public Safety	2015-07-28	10			2015-08-11	10
Conseil Scolaire Francophone Provincial de Terre-Neuve-et-Labrador	2015-09-22	12			2015-10-08	12
Conseil Scolaire Francophone Provincial de Terre-Neuve-et-Labrador	2015-10-09	13			2015-10-29	13
Department of Justice and Public Safety	2015-07-22	14			2015-08-11	14
Department of Municipal and Intergovernmental Affairs	2015-07-22	14			2015-08-11	14
Department of Municipal and Intergovernmental Affairs	2015-11-13	14			2015-12-03	14
Executive Council	2015-09-02	14			2015-09-23	14
Executive Council	2015-09-02	14			2015-09-23	14
Conseil Scolaire Francophone Provincial de Terre-Neuve-et-Labrador	2015-07-14	15			2015-08-04	15
Royal Newfoundland Constabulary	2015-11-03	15			2015-11-25	15
Department of Justice and Public Safety	2015-07-28	17			2015-08-20	17

<i>Public Body</i>	<i>Review Started</i>	<i>Days for Informal Resolution</i>	<i>Formal Review Started</i>	<i>Days for Formal Review</i>	<i>Date Complaint Closed</i>	<i>Total Days</i>
Office of the Chief Electoral Office	2016-01-08	17			2016-02-02	17
Newfoundland & Labrador English School District	2016-02-18	20			2016-03-17	20
Eastern Health	2015-09-22	21			2015-10-22	21
Eastern Health	2015-09-22	21			2015-10-22	21
Conseil Scolaire Francophone Provincial de Terre-Neuve-et-Labrador	2015-07-10	22			2015-08-11	22
Department of Justice and Public Safety	2015-11-02	22			2015-12-02	22
Department of Municipal and Intergovernmental Affairs	2015-12-23	23			2016-01-28	23
Department of Transportation and Works	2016-02-12	24			2016-03-17	24
Town of Wabana	2015-12-21	25			2016-01-28	25
Newfoundland and Labrador Liquor Corporation	2015-11-10	26			2015-12-17	26
Royal Newfoundland Constabulary Public Complaints Commission	2015-09-28	26			2015-11-04	26
Department of Advanced Education and Skills	2016-01-05	27			2016-02-11	27
Department of Justice and Public Safety	2015-08-14	27			2015-09-23	27
Town of Pasadena	2015-12-15	29			2016-01-28	29
Department of Advanced Education and Skills	2015-08-06	30			2015-09-18	30
Department of Environment and Conservation	2015-12-10	30			2016-01-26	30
Department of Municipal and Intergovernmental Affairs	2015-11-13	30			2015-12-29	30
Department of Transportation and Works	2015-10-07	30			2015-11-19	30
Memorial University	2015-07-30	31			2015-09-14	31
Department of Justice and Public Safety	2015-08-18	32			2015-10-02	32
Service NL	2016-02-08	34			2016-03-28	34
Town of St. Georges	2015-07-24	35			2015-09-14	35
Eastern Health	2016-01-25	43			2016-03-28	43
Office of the Chief Information Officer	2015-12-01	49			2016-02-11	49
Department of Finance	2015-11-25	52			2016-02-10	52
Memorial University	2016-01-13	53			2016-03-30	53
Memorial University	2015-07-22	69			2015-10-29	69

**Timelines for Access Complaints for the 2015-2016 Reporting Period
under the Access to Information and Protection of Privacy Act**

<i>Public Body</i>	<i>Review Started</i>	<i>Days for Informal Resolution</i>	<i>Formal Review Started</i>	<i>Days for Formal Review</i>	<i>Date Complaint Closed</i>	<i>Total Days</i>
Memorial University	2015-03-30	339	2016-03-03	28	2016-03-31	367
Memorial University	2015-03-30	339	2016-03-03	28	2016-03-31	367
Memorial University	2015-06-24	14			2015-07-08	14
Eastern Health	2015-07-14	28			2015-08-11	28
Office of the Child and Youth Advocate	2015-05-22	28			2015-06-19	28
Workplace Health, Safety and Compensation Commission	2015-05-11	30			2015-06-10	30
City of Mount Pearl	2015-06-10	37			2015-07-17	37
Department of Justice	2015-05-01	42			2015-06-12	42
Eastern Health	2015-06-11	48			2015-07-29	48
Eastern Health	2015-06-23	49			2015-08-11	49
Nalcor	2015-07-06	50			2015-08-25	50
Department of Justice	2015-04-22	51			2015-06-12	51
Town of Torbay	2015-06-10	57			2015-08-06	57
House of Assembly	2015-04-29	58			2015-06-26	58
House of Assembly	2015-04-29	58			2015-06-26	58
House of Assembly	2015-04-29	58			2015-06-26	58
House of Assembly	2015-04-29	58			2015-06-26	58
House of Assembly	2015-04-29	58			2015-06-26	58
House of Assembly	2015-04-29	58			2015-06-26	58
House of Assembly	2015-04-29	58			2015-06-26	58
House of Assembly	2015-04-29	58			2015-06-26	58
Department of Justice	2015-03-25	61			2015-05-25	61
Department of Municipal and Intergovernmental Affairs	2015-03-25	61			2015-05-25	61
Department of Business, Tourism, Culture and Rural Development	2015-06-17	68			2015-08-24	68
Service NL	2015-03-18	70			2015-05-27	70
Department of Transportation and Works	2015-01-26	71			2015-04-07	71
Department of Municipal and Intergovernmental Affairs	2015-06-15	91			2015-09-14	91
Newfoundland and Labrador English School District	2015-03-13	95			2015-06-16	95
Town of Portugal Cove-St. Philips	2015-05-04	95			2015-08-07	95

Public Body	Review Started	Days for Informal Resolution	Formal Review Started	Days for Formal Review	Date Complaint Closed	Total Days
Chief Electoral Officer	2015-02-20	103			2015-06-03	103
Department of Business, Tourism, Culture and Rural Development	2015-04-02	105			2015-07-16	105
Memorial University	2015-06-25	126			2015-10-29	126
Town of Stephenville	2015-05-11	164			2015-10-22	164
Department of Business, Tourism, Culture and Rural Development	2015-04-01	216			2015-11-03	216
Department of Business, Tourism, Culture and Rural Development	2015-04-01	216			2015-11-03	216
Department of Business, Tourism, Culture and Rural Development	2015-04-01	216			2015-11-03	216
Department of Business, Tourism, Culture and Rural Development	2015-04-01	216			2015-11-03	216
Service NL	2014-10-21	246			2015-06-24	246
Royal Newfoundland Constabulary	2014-07-02	359			2015-06-26	359
Labrador and Aboriginal Affairs	2015-02-25	379			2016-03-10	379
Memorial University	2014-07-15	405			2015-08-24	405
Newfoundland and Labrador English School District	2014-08-01	453			2015-10-28	453
Department of Tourism, Culture and Recreation	2014-07-09	502			2015-11-23	502
Department of Tourism, Culture and Recreation	2014-07-09	502			2015-11-23	502
Memorial University	2013-08-09	696			2015-07-06	696
Central Health	2013-10-23	791			2015-12-23	791
Memorial University	2013-04-17	869			2015-09-03	869
Human Resource Secretariat	2012-12-03	898			2015-05-20	898
Memorial University	2012-07-03	1168			2015-09-14	1168
Department of Business	2011-03-17	1651			2015-09-23	1651

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