



OFFICE OF THE INFORMATION
AND PRIVACY COMMISSIONER
NEWFOUNDLAND AND LABRADOR

ANNUAL REPORT 2008 | 2009

PROMOTING ACCESS & PROTECTING PRIVACY
FINDING THE BALANCE

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1-877-729-6309

Access

By providing a specific right of access and by making that right subject only to limited and specific exceptions, the legislature has imposed a positive obligation on public bodies to release information, unless they are able to demonstrate a clear and legitimate reason for withholding it. Furthermore, the legislation places the burden squarely on the head of a public body that any information that is withheld is done so appropriately and in accordance with the legislation.

NL OIPC Report 2005-002



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)

Commissioner's Message



October 7, 2009








The Honourable Roger Fitzgerald
Speaker
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 Section 59 of the Access to Information and Protection of Privacy Act. This Report covers the period from April 1, 2008 to March 31, 2009.


A handwritten signature in black ink, reading "E. P. Ring". The signature is stylized and includes a long horizontal flourish extending to the right.

Edward P. Ring
Information and Privacy Commissioner

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Foreword



Under the *Access to Information and Protection of Privacy Act* (the “ATIPPA”), 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 records on administration and practices as well as information on legislation and even government policies. The basic objective is to make government open and transparent, and in doing so to make government officials and politicians more accountable to the people of the Province.

Over the past three decades, all jurisdictions in Canada have introduced legislation relating to the public’s right to access information and to their right to have their personal privacy protected.

These legislative initiatives represent an evolution from a time when governments in general consistently demonstrated stubborn resistance to providing open access to records. This concept has changed! Today, access to information is a clearly understood right which the public has demanded and which governments have supported through legislation and action. No doubt there are still instances when unnecessary delays and unsubstantiated refusals to release information are encountered by the public. But certainly in this Province, such cases are more and more the exception. The rule and spirit of “giving the public a right of access to records” is increasingly the norm.

The ATIPPA, like legislation in all 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 42.1 of the ATIPPA 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’s (Office) has been given wide investigative powers, including those provided under the *Public Inquiries Act*, and has full and complete access to all records in the custody or control of public bodies. 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 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 manner in which public bodies respond to our 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.

On the privacy side, as noted in the OIPC's 2007-2008 Annual Report, Newfoundland and Labrador remained the sole provincial jurisdiction lacking legislative requirements for public bodies to appropriately protect the personal information in their custody. Even though the access provisions of the *ATIPPA* have been in force since January 17, 2005, government chose to delay the proclamation of the privacy provisions (Part IV) in order to allow public bodies to prepare for the impact that these provisions may have on their operations. It was therefore with great satisfaction that I noted the proclamation on January 16, 2008 of Part IV of the *ATIPPA* which contains provisions governing the collection, use and disclosure of personal information by public bodies. These provisions also give individuals a specific right to request the correction of errors involving their own personal information.

Personal Health Information Act (PHIA)

I wish to take this opportunity to comment on government's plan to enact legislation which is specifically aimed at the protection of personal health information, to be called the *Personal Health Information Act*, or *PHIA*. Personal health information is indeed often the most sensitive form of personal information. Even though the *ATIPPA* also protects personal health information as it does with other types of personal information, the *ATIPPA* only applies to public bodies, whereas the intention with *PHIA* is that it will apply to personal health information held by both public sector and private sector custodians. Therefore, given that the scope of *PHIA* is much broader than the *ATIPPA*, this Office will be tasked with a broader mandate

than currently maintained as the Office will not only serve as the oversight body for *ATIPPA* but for *PHIA* as well. Whereas there are approximately 470 public bodies designated under the *ATIPPA* that are subject to the oversight of this Office, there are likely thousands of private and public sector custodians of personal health information whose compliance with the *PHIA* will be overseen by this Office. I am confident that the House of Assembly will appreciate the massive undertaking this likely will be, and that appropriate resources will be allocated to this Office in order to allow my staff to carry out this very important mandate.

This Office continued to take an active role in the preparation for roll-out of *PHIA*. Specifically, staff from this Office sit on the *PHIA* Steering Committee and have membership on both the Education Working Group and Regulations Development Working Group. We applaud government for taking that initiative, and we look forward to the proclamation into law of this legislation in the 2009-2010 fiscal year by the House of Assembly. We also take this opportunity to acknowledge the hard work, dedication and energy of the responsible officials in the Department of Health and Community Services and the Newfoundland and Labrador Centre for Health Information, and indeed, all stakeholders in advancing this significant and important piece of legislation.

Accessing Information



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. 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. The process is outlined below.

How to Make an Access to Information Request

- Determine which public body has custody or control of the record.
- Contact the public body, preferably the Access and Privacy Coordinator, to see if the record exists and whether it can be obtained without going through the process of a formal request.
- To formally apply for access to a record under the Act, a person must complete an application in the prescribed form, providing enough detail to enable the identification of the record. Application forms are available from the public body or from our website www.oipc.nl.ca.
- Enclose a cheque or money order for the \$5.00 application fee payable to the public body to which the request is submitted (or, if a government department, payable to the Newfoundland Exchequer).
- Within 30 days, the public body is required to either provide access, transfer the request, extend the response time up to a further 30 days or deny access. Additional fees may also be imposed.

- If access to the record is provided, then the process is completed. If access is denied, or other action has been implemented which you dispute, the applicant may request a review by the Information and Privacy Commissioner, or an appeal may be made to the Supreme Court Trial Division.

How to File a Request for Review with the Information and Privacy Commissioner

- Submit a Request for Review form to our Office. The form and the contact information are available on our website www.oipc.nl.ca.
- Upon receipt of a complaint or formal request for review, the Information and Privacy Commissioner will review the circumstances and attempt to resolve the matter informally.
- If informal resolution is unsuccessful, the Information and Privacy Commissioner will prepare a Report and, where necessary, will make recommendations to the public body. A copy of the Report is provided to the applicant and to any third party notified during the course of our investigation.
- Within 15 days after the Report is received, the public body must decide whether or not to follow the recommendations, and the public body must inform the applicant and the Commissioner of this decision.
- Within 30 days after receiving the decision of the public body, the applicant or the Information and Privacy Commissioner may appeal the decision to the Supreme Court Trial Division.

Withholding Information



While the *ATIPPA* 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. The recourse for applicants in such cases is to the Office of the Information and Privacy Commissioner.

Complaints range from:

- being denied the requested records;
- being requested to pay too much for the requested records;
- being told by the public body that an extension of more than 30 days is necessary;
- not being assisted in an open, accurate and complete manner by the public body;
- other problems related to the *ATIPPA*.

While the Commissioner's investigations provide him access to any records in the custody or control of public bodies, he does not have the power to order that a complaint be settled in a particular way. He and his staff rely on persuasion 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*. These were listed in previous annual reports but warrant repeating.

Mandatory Exceptions

- *Cabinet confidences* – where the release of information would reveal the substance of deliberations of Cabinet.
- *Personal information* – recorded information about an identifiable individual, including name, address or telephone number, race, colour, religious or political beliefs, age, or marital status.
- *Harmful to business interests of a third party* – includes commercial, financial, labour relations, scientific or technical information and trade secrets.
- *House of Assembly service and statutory office records* – protects parliamentary privilege, advice and recommendations to the House of Assembly, and records connected with the investigatory functions of a statutory office.

Discretionary Exceptions

- *Local public body confidences* – includes a draft of a resolution, by-law, private bill or other legal instrument, provided they were not considered in a public meeting.
- *Policy advice or recommendations* – includes advice or recommendations developed by or for a public body or minister. Advice is considered to be a suggested course of action and not a progress or status report.
- *Legal advice* – includes information that is subject to solicitor-client privilege and legal opinions by a law Officer of the Crown.

- *Harmful to law enforcement* – includes investigations, inspections or proceedings that lead or could lead to a penalty or sanction being imposed.
- *Harmful to intergovernmental relations* – includes federal, local, and foreign governments or organizations.
- *Harmful to financial or economic interests of a public body* – includes trade secrets, or information belonging to a public body that may have monetary value, and administrative plans/ negotiations not yet implemented.
- *Harmful to individual or public safety* – includes information that could harm the mental or physical well-being of an individual.

Unsupportable refusals to release information and delays in responding to requests for access are particularly frustrating to applicants as well as to this Office. This being said, it is of significant comfort to acknowledge that there is a sustained effort under way by government through the ATIPP Office in the Department of Justice to train public bodies in their obligations under the ATIPPA, especially as it relates to the timeframes for notification and action. The government's ATIPPA Policy and Procedures Manual is an integral part of the ongoing training program. This Office has and will continue to work with government in this effort.

It is noted here that public bodies often express resentment that they too often receive requests for information that they would call repetitive, trivial or even vexatious. They argue that knowing how much a minister or a CEO spends on hotel bills and meals

doesn't do anything to promote good public policy, or that requesting copies of thousands of e-mails leading up to a dismissal of an employee does nothing to further the mandate or efficiency of an agency or municipality. Whether these assertions are correct or not, the fact is that in the grand scheme of things, requests for records which may seem petty to some, may be a serious issue for certain citizens whose right to make a request is protected by the ATIPPA. The legislation does not provide for or allow this Office to pick and choose whether an access request is important, useful or frivolous. Referring back to the above examples, politicians who appreciate that their expenses may become public might be a little more conscious of thrift when traveling, while public bodies preparing to dismiss an employee may be a little more sensitive and professional in their human resources practices.

The bottom line is that it is inevitable that the public's recourse to access laws will likely grow. Whether they are policy, financial, economic, political or personal, issues are becoming more and more complex and the public is becoming more questioning. The right to demand access to such information, even if it seems trivial or unimportant to all but the requester, is still paramount in that process.

The Role Of The Commissioner



In accordance with the provisions of the *ATIPPA*, when a person 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*.

This responsibility is specific and clear, and this Office takes it seriously. However, there are often questions concerning how we see our role, and how we do our job. It has been mentioned earlier that the Office is independent and impartial. There are occasions when the Commissioner has sided with applicants and other occasions when the Commissioner supports the positions taken by public bodies. In every case, having done our research carefully and properly, all conflicting issues are appropriately balanced, the law and common sense are applied and considered, and the requirements of the legislation are always met. Applicants, public bodies and third parties must understand that this Office has varied responsibilities, often requiring us to decide between many conflicting claims and statutory interpretations.

As noted, this Office does not have enforcement or order power. We do not see this as a weakness, rather it is a strength. Order power may be seen as a big stick which could promote an adversarial relationship between this Office and public bodies. We promote and utilize negotiation, persuasion and mediation of disputes and have experienced success with this approach. Good working relationships with government bodies are an important factor and have been the key to this Office's success to date.

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

Success can be measured by the number of satisfied parties involved in the process, by fewer complaints, and by more and more information being released by public bodies without having to engage the appeal provisions of the *ATIPPA*.

This Office is committed to working cooperatively with all parties. We respect opposing points of view in all our investigations but pursue our investigation of the facts vigorously.

We are always available to discuss requests for review and related exceptions to the fullest extent at all levels without compromising or hindering our ability to investigate thoroughly. We emphasize discussion, negotiation and cooperation. Where appropriate, we are clear in stating which action we feel is necessary to remedy disagreements. In that regard, we will continue to make every effort to be consistent in our settlement negotiations, in our recommendations and in our overall approach.

Activities and Statistics



Education and Awareness

Following is a list of presentations, awareness activities and events conducted or attended by staff of the OIPC.

May 08	Infoway Conference, Victoria, BC May 7 - 8, 2008
June 08	Commissioners' Conference, Regina, SK June 3 - 5, 2008
June 08	St. John's Privacy Workshop, (Co-hosted OIPC, Memorial University, and ATIPP Office of Department of Justice), June 11, 2008
June 08	Electronic Health Info Conference – Halifax, June 23 - 24, 2008 - Presenter and Panel Member
June 08	Access and Privacy Conference, Moncton, NB June 17 - 18, 2008
June 08	Access and Privacy Conference, Edmonton, AB June 18 - 20, 2008
Sep 08	Presentation to Continental Media Group – 30 persons (Editors, Business Managers & Publishers) Terra Nova Lodge, September 22, 2008
Sep 08	Eastern Health Presentations St. John's, September 23, 2008
Sep 08	Moved OIPC Office from Confederation Building to 34 Pippy Place on September 23, 2008
Oct 08	OIPC - Town Hall Presentations: Harbour Grace, October 7, 2008 Clareville, October 8, 2008 Marystown, October 9, 2008 Twillingate, October 16, 2008
Oct 08	Presentation to Corner Brook Town Council, October 18, 2008
Oct. 08	3 1st International Data Protection Agency Conference, Strasbourg, France October 13 - 19, 2008
Oct. 08	OIPC - Town Hall Presentations: Gander – October 22, 2008 Bay d' Espoir – October 23, 2008
Nov. 08	OIPC - Town Hall Presentations: Grand Falls/Windsor, November 4, 2008 Springdale, November 5, 2008 Deer Lake, November 18, 2008
Nov. 08	Senior Administrators Advisory Group Memorial University, November 18, 2008
Nov 08	OIPC - Town Hall Presentations: Corner Brook, November 19, 2008 Stephenville, November 20, 2008

Nov 08	Community of Practice Group, ATIPP Coordinators Government Departments and Agencies St. John's, November 25, 2008
Dec 08	Law Society of Newfoundland and Labrador St. John's, December 8, 2008
Dec 08	Presentation to Deputy Ministers' Group St. John's, December 12, 2008
Dec 08	OCIO Briefing and Facility Tour St. John's, December 16, 2008
Dec 08	Research Application/Submission Consultation (MUN Research Group) St. John's December 17, 2008
Jan 09	Canadian Bar Association – Access and Privacy Section, St. John's, January 13, 2009
Jan 09	Presentation to Senior Management Group Newfoundland and Labrador Housing Corporation St. John's, January 28, 2009
Jan 09	Data Privacy Day in conjunction with Memorial University ATIPP Coordination Office and Camouflage Software Inc., St. John's Infoway Privacy Forum, St. John's PHIA Steering Committee, St. John's PHIA Education Working Group, St. John's Media Interviews with: The Telegram, North East Avalon Times, Western Star, CBC, Open Line Shows (various locations)
Feb 09	Investigators Conference, Ottawa, ON February 17 - 18, 2009
Feb 09	Commissioners' Conference, Ottawa, ON February 19 - 20, 2009
Feb 09	Investigator Mediation and Negotiation Training Ottawa, February 19 - 20, 2009
Mar 09	OIPC - Town Hall Presentations: St. Anthony, March 4, 2009 Plum Point, March 5, 2009 Happy Valley/Goose Bay, March 25, 2009 Labrador City, March 26, 2009

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 and public bodies. 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 and privacy matters.

OIPC Website

Our website, (www.oipc.nl.ca), continues to be a valuable resource for members of the public and public bodies. In addition to information and resources available on this website, you will find a Table of Concordance. The purpose of this Table of Concordance is to provide an index of references in Commissioner's Reports to specific sections of the ATIPPA. This allows for quick and easy searching of particular topics that the Commissioner has discussed in one or more of his Reports.

Staffing

As is evident from this year's statistics, the demand for the services of this Office has substantially increased from last year. This has obviously had a significant effect on our operations.

Our fourth Access & Privacy Analyst hired on a temporary basis in January 2008 was subsequently made permanent early in the 2008-2009 fiscal year; a newly created Administrative Assistant position was filled in May 2008 and a temporary Executive Secretary position was created in September

2008. An additional temporary full-time Access & Privacy Analyst was hired in January 2009, bringing our total staff complement to seven permanent and two temporary positions for the



Dan Peyton, Senior Access & Privacy Analyst

2008-2009 fiscal year. While all staff members work diligently and tirelessly to meet the challenges of this increased demand, it is obvious that our workload is quite high and will continue to be high well into the future. Individuals and organizations are now more familiar with this Office and with the ATIPPA and, as a result, are exercising their rights under the legislation more often. We are encouraged by this.

I should also note that our Office, even with the additional staff, has been challenged to cope with the demands placed on it due to the significant workload resulting from the privacy breach investigations. The backlog of access requests/reviews has grown since the last reporting period. In addition, it is anticipated that *Personal Health Information Act (PHIA)* will be proclaimed into law in the coming year. As with the ATIPPA, this Office will be the review mechanism for this new legislation. The PHIA will undoubtedly create even more demand on this Office and, as such, additional staffing increases will be necessary. We will monitor the roll out of this legislation closely and we anticipate Government's support in seeking the necessary resource increases as appropriate.

2008-2009 Statistics

During the year ended March 31, 2009, this Office received 86 requests for review under section 43 of the ATIPPA, 17 complaints under section 44 of the ATIPPA and 17 privacy investigations under Part IV of the ATIPPA. In addition, there were 53 requests for review, 8 complaints and 6 privacy investigations carried over from the previous year. This reflects a 20% increase for Requests for Review, a 67% increase for Complaints and a 283% increase for privacy investigations for current files during the 2008-2009 fiscal year.

Of the Requests for Review, 58 were resolved through informal resolution and 16 resulted in a Commissioner's Report. The remainder were either closed or carried over to the 2009-2010 fiscal year. In addition to Requests for Review, this Office received 145 access to information related inquiries during the 2008-2009 year. Of the 25 complaints received under section 44, relating either to the fees being charged or to extensions of time by public bodies, 16 were investigated and concluded by this Office and the remainder were carried over to the 2009-2010 fiscal year.

Of the 164 Requests for Review and complaints dealt with in the 2008-2009 year:

- 145 (or 88%) were initiated by individuals;
- 8 (or 5%) were initiated by the media;
- 6 (or 4%) were initiated by political parties;
- 4 (or 2%) were initiated by legal firms;
- 1 (or 1%) was initiated by a business;

Thirty-seven percent of the cases were related to educational bodies. Thirty-four percent of all cases were related to provincial government departments. Sixteen percent of the cases were related to local government bodies. Eight percent of the cases were related to agencies of the Crown. Three percent of the cases were related to health care bodies and two percent of the cases were related to the Legislative Assembly.

Of the privacy investigations received, 5 were resolved through informal resolution and 5 resulted in a Commissioner's Report. The remainder were either closed or carried over to the 2009-2010 fiscal year. In addition to privacy investigation requests, this Office received 247 privacy related inquiries during the 2008-2009 year.

Of the 23 privacy investigations dealt with in the 2008-2009 year:

- 18 (or 78%) were initiated by individuals;
- 3 (or 13%) were initiated by education bodies;
- 1 (or 4%) was initiated by a department;
- 1 (or 4%) was initiated by an agency of the Crown

Thirty-five percent of the cases were related to local government bodies. Twenty-two percent of all cases were related to provincial government departments. Seventeen percent of the cases were related to education bodies. Seventeen percent of the cases were related to health care bodies. Nine percent of the cases were related to agencies of the Crown.

For more information on the statistics for the year 2008-2009 see the Figures and Tables in Appendix A.



In our 2006-2007 Annual Report we had noted that Newfoundland and Labrador at that time remained the sole provincial jurisdiction lacking legislative requirements for public bodies to appropriately protect the personal information in their custody. It was therefore with great satisfaction that we were able to report, in our 2007-2008 Annual Report, the proclamation on January 16, 2008 of Part IV of the *ATIPPA*, which contains provisions governing the collection, use and disclosure of personal information by public bodies in Newfoundland and Labrador.

Balance

The OIPC will react to all formal privacy breach complaints and will conduct an investigation as appropriate. It should be noted that the OIPC preserves the right to initiate an investigation into privacy breach matters when it appears to be in the public interest to do so, without a formal submission from a complainant. The Office may also conduct a privacy investigation at the request of the head of a public body or his or her representative.

The OIPC is not bound by statute to issue reports on its privacy investigations, although we have done so in some cases because it is something we consider to be a valuable part of our tool-kit as an oversight body. Our Office has developed internal criteria, such as whether a conclusion would set a legal precedent, or whether a Report might have significant educational value, to help decide whether a report should be issued in any particular case. There have been many cases in which we have opted instead to simply write a letter to the public body and complainant, following the

investigation of a privacy complaint, outlining the results, either agreeing with the public body or making recommendations for changes. We have tried to be careful, however, not to place ourselves in a situation where we are issuing a public report every time we have found that a public body has done something wrong, but only sending a private letter to the parties when we find that there has been no breach, or that the public body has done something right. Of the five privacy reports issued by this Office, as noted below, three contain recommendations for action, but two acknowledge the appropriate action already taken by the public body in response to the breach, and contain no recommendations.

It should be re-emphasized that it is access issues, rather than privacy issues, which have constituted the bulk of our work in the past year. A lot of credit for the fact that privacy issues have not been as numerous as might have been expected goes to the Department of Justice ATIPP Office and to the Office of the Chief Information Officer, for being proactive on privacy, for concentrating on privacy impact assessments, for responding quickly to gaps in policies and procedures when they are identified, and for cooperating fully with our Office. Privacy is all about prevention, and sometimes the preventive work goes unrecognized. I want to take this opportunity to recognize the good work that is being done here in Newfoundland and Labrador.

Privacy in the Coming Year

During the past year we have had the opportunity to gain significant exposure to the issues which are at the forefront for the other privacy oversight bodies in Canada. That experience indicates that health information privacy is where we have to keep our focus. There are many other valid and pressing and interesting issues competing for our attention: developments in case law, the Enhanced Drivers' License, transnational data flows, advances in information security, video surveillance - the list goes on. But the privacy of a person's health information affects every single individual in this country, and the information systems and legislative solutions that are being developed in most jurisdictions are moving ahead at a rapid pace. Privacy oversight bodies such as this Office must be part of the process. My view is that the more engagement from privacy oversight bodies at the beginning and along the way, the better the final product will be.

Fortunately, here in Newfoundland and Labrador I can report that this is indeed the case. Work in the development of the electronic health record is being spearheaded here by the Newfoundland and Labrador Centre for Health Information, and

supported by the provincial Department of Health and Community Services. To date, this Office has been fully engaged with these parties, and looks forward to continued cooperation. We also have had a significant involvement with the development of the *Personal Health Information Act (PHIA)*, and now we are fully participating in the implementation process. The *Personal Health Information Act* was passed in June 2008, and proclamation is expected in 2010. To some this might seem like a long time, and perhaps it is a little longer than ideal, but compared to the proclamation of the *ATIPPA* privacy provisions, which took even longer, we are quite pleased with the *PHIA* process.

The fact that *PHIA* is intended to cover custodians of health information in the private sector as well as the public sector means that *PHIA* is quite far reaching legislation. Our Office lobbied for a significant effort in training and education to help custodians of personal health information become prepared for the new law. I am quite pleased that the Minister of Health and Community Services has allocated significant funding in this year's budget for *PHIA* implementation, and I look forward to reporting on further advances in the protection of privacy in the upcoming fiscal year.



Jacquie Brown
Business Manager

Brenda Lush
Executive Secretary

Amy Preston
Administrative Assistant



Since January 16, 2008 this Office has been engaged in 23 separate privacy breach or complaint investigations pertaining to Part IV of the *ATIPPA*. A number of these have been completed and five Privacy Reports, including recommendations, have been released during the 2008-2009 fiscal year. Those Reports, as well as a selection of some of our other investigations, are summarized below. Most of the incidents under investigation occurred subsequent to the proclamation of the privacy provisions, however, one actually occurred in late 2007, involving the Public Health Laboratory (“PHL”).

The following are summaries of selected Privacy Reports/Investigations and other privacy matters during the period of this Annual Report.

Public Health Laboratory - Report P-2008-001

The Public Health Laboratory falls under the Department of Health and Community Services, although most of its staff are employees of Eastern Health. The Department contacted our Office in November of 2007 to advise us of a privacy breach. The breach occurred when a consultant to PHL, using a computer from her home, installed file-sharing software known as Limewire, which is used for downloading music from the internet. An error by the consultant resulted in the uploading of personal health information from the consultant’s computer through Limewire to the internet, where it was discovered by a data security company that was monitoring file-sharing websites. The company was able to view sensitive medical test results of individuals whose information was maintained on the consultant’s PHL computer. The company quickly notified the consultant, who then disconnected the computer, thus containing the

breach. The investigation into this matter resulted in the first privacy investigation Report produced by this Office (Report P-2008-001).

When the Department reported the breach to the OIPC, it indicated its intention to notify affected individuals about the breach to the extent possible. The Department requested permission to include in its letter of notification to affected individuals that those individuals may ask our Office to investigate any complaints they might have. My predecessor, Mr. Philip Wall, agreed to this request. As a result, we received a small number of complaints, and this Office undertook an investigation into the breach with the full cooperation of the Department.

We knew prior to undertaking the investigation that because the privacy provisions were not in force at the time of the breach, no violation of the *ATIPPA* could be found to have occurred. Nevertheless, the breach itself was a serious one, and the investigation process was extremely important in order to find out what went wrong and to try to determine how such incidents can be prevented in the future.

Our Report commended the Department for its response to the breach, including its notification process. We further commended the Department for requesting that this Office investigate any complaints, despite the privacy provisions of the *ATIPPA* not being in force at the time of the breach. We found, however, that policies governing the management, retention and destruction of electronic records were significantly lacking at PHL, and that allocation of responsibility for electronic records and privacy between PHL and Eastern Health (which provides information technology support to PHL) had not been

formalized appropriately. We also determined that appropriate training had not been provided to staff or management of PHL prior to the privacy breach, and that such training should be provided at the earliest opportunity. We further recommended that privacy protection be built into the contractual language whenever a third party is retained to provide services to PHL; that Privacy Impact Assessments be conducted where appropriate at PHL; and that recommendations of the IT Security Framework Review be implemented. It is our view that these conclusions and recommendations are likely to have broad application across all public bodies.

Eastern School District - Report P-2008-002

Another breach reported to this Office in the weeks following the proclamation of the privacy provisions of the *ATIPPA* involved the theft of four laptop computers from the Eastern School District (“ESD”) offices in St. John’s. The Eastern School District reported the breach on February 21, 2008, and requested that we undertake an investigation. We were advised that one of the four stolen computers contained a database of student information, including student names, MCP numbers, addresses, grade levels, phone numbers, and names of parents/guardians. In this case, ESD instituted a mass notification, with school children receiving letters to bring home to parents.

The Report issued by this Office found that sections 36 and 39 of the *Access to Information and Protection of Privacy Act (ATIPPA)* had been breached by ESD. Section 36 of the *ATIPPA* requires public bodies to make “reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or disposal.” ESD failed to provide such reasonable security

measures and this led to the unauthorized disclosure of personal information. We concluded that a multi-layered approach to protection of personal information is necessary, including administrative, physical and technological safeguards. While policies and directives with respect to safeguarding information stored on mobile devices were lacking at the time of the breach, such policies are now in active development by ESD. We were satisfied with the physical safeguards employed by ESD both prior to and since the breach. Finally, we found that encryption is the required industry standard with respect to technological safeguards, but at the time of the breach the laptops were protected by passwords only. This was not a “reasonable security arrangement” in accordance with section 36. Since the breach, ESD has installed additional levels of passwords and an encrypted drive (where personal information must be stored) on all ESD office laptops. These measures are in keeping with section 36. We also recommended that ESD and the Department of Education develop and assign random unique identifiers to students to replace the use of MCP numbers.

Eastern School District - Report P-2008-003

On April 2, 2008 Eastern School District was again a victim of a computer theft. Three desktop computers were stolen from an elementary school. One of these computers was the school server. Information on the server consisted of personal information including the names, addresses, MCP numbers, and contact and bussing information of 83 school children. Our Office was contacted by ESD and asked to investigate. The investigation found that given the circumstances of this case, reasonable security measures, in keeping with the obligations imposed by section 36 of the *ATIPPA*, were in place prior to the theft. Also,

because of the speed with which the thieves had been apprehended and the difficulty of accessing the computer files, section 39 of the *ATIPPA* had not in fact been breached. Since the theft, ESD has taken several additional steps to further increase security. We are satisfied that ESD has now implemented a multi-layered approach to protect personal information stored on the server, in keeping with its duty under section 36 of the *ATIPPA*. We therefore made no recommendations.

Municipal Affairs - Report P-2008-004

The OIPC received a complaint in February 2008 regarding the Department of Municipal Affairs (the "Department"). The Complainant stated that his identity and other personal information had been improperly disclosed by the Department. He indicated that this occurred when the Department responded to a letter of complaint that he had written to it regarding the actions of the Town in which he resided, and the Department copied that response to the Town without his knowledge or consent.

The Report issued by this Office found that in the course of carrying out its investigation the Department had indeed disclosed some of the Complainant's personal information to the Town, including his name, his issues and concerns. However, the Complainant had written to the Department for the specific purpose of having his concerns addressed, and we concluded that the Department could not reasonably be expected to deal with those concerns without disclosing the details, including his identity, to the Town. The Report further concluded that, for the most part, the information was disclosed for the purpose for which it was obtained, or for a use consistent with that purpose, pursuant to section 39 of the *ATIPPA*, and therefore the disclosure did not violate the privacy provisions of the *Act*. We

expressed the view that an individual who writes to a Department expressing concerns or making a complaint of this particular nature should understand that it is unreasonable to expect that such matters can be addressed with complete anonymity.

We observed, however, that while the Department acted reasonably in disclosing some information in dealing with the complaint, it was not necessary to disclose certain other items of information, such as the complainant's fax number. We recommended that in such circumstances public bodies be mindful of the need to limit the disclosure of personal information to the minimum required to accomplish legitimate purposes. We also recommended that where it appears that an individual has written to a public body expecting confidentiality, the public body should, whenever possible, advise the individual that it may be necessary to disclose personal information, before actually doing so.

Eastern School District - Report P-2009-001

On November 3, 2008 Eastern School District ("ESD") notified this Office that a break-in had occurred at a teacher's home and the teacher's laptop computer containing the personal information of 79 students had been stolen. The information consisted of student names, addresses, phone numbers and grades. The teacher had taken the information from the school on an encrypted USB drive but it was subsequently "backed up" in unencrypted form on the laptop's hard drive, without ESD's knowledge. The teacher failed to realize the necessity of working directly from the encrypted USB drive in order to keep the information secure. Our investigation found that section 36 of the *ATIPPA* had been breached, as ESD had not taken proper administrative measures to protect the personal information in its custody or control. ESD has now

distributed a brochure to all users of encrypted USB drives, clarifying the use and the role of these USB drives in protecting personal information. We therefore made no recommendations, as we found that this action satisfied the requirements of section 36.

Workplace Health, Safety and Compensation Commission

The first privacy breach which was reported to this Office subsequent to the proclamation of the *ATIPPA* privacy provisions occurred in late January 2008, when an employee of a health care services provider, under contract to the Workplace Health Safety and Compensation Commission (“WHSCC” or the “Commission”), notified the Commission that computer records containing the personal information of clients, including health information, may have been exposed over the internet. As with the PHL breach, this happened as a result of the employee’s decision to install Limewire, this time on a laptop computer that also contained WHSCC client files.

WHSCC subsequently wrote to the OIPC requesting that we conduct an investigation of this incident. We agreed to investigate and make recommendations with respect to the Commission’s policies, procedures and security practices, and in particular measures that might be taken to further enhance the protection of WHSCC data in the hands of external contractors.

During the first phase of our investigation, it became evident that WHSCC had taken appropriate measures, in the hours immediately following notification of the breach, to contain the breach, recover possession of the records and to send the computer for forensic analysis to determine the extent of the exposure. WHSCC also identified the individual clients whose

personal information had been exposed, and notified all of them within the week following the event. By the end of the period covered by this Annual Report, it was evident that WHSCC had completed its own internal investigation and was reviewing the adequacy of its existing policies and procedures. In particular, WHSCC along with the Department of Justice, was reviewing the terms and conditions governing information security, privacy and confidentiality in the contracts under which external health care service providers work, with a view to strengthening those provisions and their enforcement. Our Office will issue a Report on this investigation in the near future.

Department of Education - Student Aid

A serious “hacking” case was reported to us in September 2008. It involved a student who was filling out on-line forms on the provincial Student Aid website, and who discovered that by changing some characters in the URL in the address bar, he could access the files of other student loan applicants, including their personal and financial information. The subsequent investigation by the Department of Education showed that 90 student files had been accessed without authorization. Each individual had to be contacted by that Department and advised that they should take steps to minimize the risk of exposure, such as notifying banks and credit card companies and monitoring their accounts. The Student Aid computer program was immediately modified so that such intrusions can no longer occur.

Eastern School District – Video Surveillance

In September 2008 a citizen filed a complaint with our Office, alleging that the installation of video cameras in the corridors of a high school constituted an invasion of privacy. The school district takes the position that the cameras are unfortunately necessary to deter theft and vandalism. Video surveillance is increasingly pervasive in our communities, and can give rise to some of the more controversial privacy issues. Our investigation is ongoing and a Report is expected in the coming months.

Eastern Health – DAKO

This matter was undertaken by the OIPC on its own initiative without receiving a formal complaint. A case that people may be familiar with from the news last fall was the Eastern Health story involving the “DAKO” diagnostic machine. Eastern Health

disposed of this piece of lab equipment which was subsequently sold to a research lab at an American university. However, the internal computer hard drive was intact, and contained medical test results of hundreds of cancer patients.

During the Cameron Inquiry these facts came to light, and the hard drive data was returned to Eastern Health. When we contacted Eastern Health to find out more information, it turned out that in this case there was no personally identifiable patient information involved – the test data was linked to file numbers on the hard drive, but not to patient names. However, it illustrates what can happen when a public body does not have well-thought-out policies and procedures for the replacement and disposal of equipment. Eastern Health has since reviewed and revised its procedures, a copy of which was provided to the OIPC for review.



Lionel Clarke
Access & Privacy Analyst

Suzanne Orsborn
Access & Privacy Analyst



As indicated in our previous Annual Report, the majority of Requests for Review received at this Office continue to be resolved through informal resolution. Of the Requests completed within the period of this Annual Report, 78% were resolved through the informal resolution process. In these cases, we write the applicant and the public body, as well as any applicable third party, confirming that a resolution has been achieved and advising all parties that the file is closed or will be closed within a specified time period. Where informal resolution is successful, no Commissioner's Report is issued.

In the event that our attempt at an informal resolution is not successful, the file will be referred to a formal investigation. The results of this investigation, including a detailed description of our findings, are then set out in a Commissioner's Report. The Report will either contain recommendations to the public body to release records and/or to act in a manner consistent with the provisions of the *Act*, or will support the position and actions of the public body. All Commissioner's Reports are public and are available on our website at www.oipc.nl.ca.

The following are summaries of selected Commissioner's Reports issued during the period of this Annual Report.

Report A-2008-003 - House of Assembly

It had been reported publicly that a former Chief Electoral Officer, who also had been a cabinet minister and was in receipt of an MHA's pension, had been required, as a condition of his appointment to the Chief Electoral Officer position, to provide proof that his pension income was donated to a registered

charity. In November 2007 the Applicant applied for access to "information regarding what charities [the former Chief Electoral Officer] donated his MHA pension to during his term as Chief Electoral Officer, as per the terms of his accepting the position." The House of Assembly refused to disclose it, claiming that it was the former Chief Electoral Officer's personal information, prohibited from disclosure under section 30(1) of the *ATIPPA*.

The Commissioner did not agree, concluding that although the information requested was personal information, it fell within one of the exceptions to the prohibition, section 30(2)(f), because the information is about a third party's "position, functions or remuneration as an Officer, employee or member of a public body or as a member of a minister's staff." Under most circumstances, what a retired person does with his pension income is personal information that would normally be exempt from disclosure. However, in this relatively unusual set of circumstances it was clear from the record that the former Chief Electoral Officer was required by the terms of his employment contract to forego his pension income, and indeed was required to provide proof to the Speaker that he had directed his pension to a registered charity. If that documentary proof of compliance were to be considered as part of the Chief Electoral Officer's employment history, then under section 30 it could not be disclosed. However, the Commissioner concluded in this case that the information was not employment history. Instead, it should be considered to be information about the remuneration that was actually received by the Chief Electoral Officer under his contract. On that basis,

and in keeping with the accountability principle, the Commissioner recommended that the information be disclosed.

The House of Assembly also argued that it was bound, under the Part IV privacy provisions of the *Act* to protect personal information from access, and to use that information only for the purpose for which it was collected. The Commissioner found, first, that the privacy provisions of the *ATIPPA* did not apply to the present case, as the applicant's request had been made before the privacy provisions came into force. The Commissioner also held, however, that even if the Part IV privacy provisions had been in force, they would not have prevented disclosure. If a public body is considering whether or not to disclose personal information pursuant to an access to information request, it is directed by the *Act* to make that decision in accordance with the provisions of Parts II and III. Part IV of the *ATIPPA* does not come into play at all. Part IV is intended to govern the actions of public bodies themselves, in how to collect, use and disclose personal information in the course of their administrative operations.

For these reasons the Commissioner recommended that the House of Assembly disclose to the Applicant the information he was seeking. After reviewing the Commissioner's Report, the House of Assembly agreed to do so.

Report A-2008-005 - Department of Transportation and Works

On June 15, 2007 an Applicant applied under the *ATIPPA* to the Department of Transportation and Works (the "Department") for access to records

relating to an investigation conducted into his allegation that he had been harassed by his supervisor during his employment with the Department.

The Department disclosed to the Applicant a copy of the Report completed by the person who conducted the investigation into the Applicant's allegation, but denied access to the remainder of the records responsive to the Applicant's request, including the notes taken by the investigator during his interview of witnesses. The Department initially relied on paragraphs (c) and (d) of section 22(1) and section 30(1) of the *ATIPPA* to deny access to the remainder of the responsive record. However, during the informal resolution process of the Applicant's Request for Review, the Department agreed to release additional information consisting of two written statements obtained from the Applicant, a written statement obtained from the Respondent who was the subject of the harassment complaint, and the notes taken by the investigator during three interviews of the Applicant.

The Department continued to deny access to the notes taken by the investigator during three interviews he conducted with the Respondent to the harassment complaint and during interviews conducted with four management employees of the Department.

The Department took the position that in accordance with paragraphs (c) and (d) of section 22(1) it was denying access to the investigator's notes because to disclose them would be a breach of the confidentiality afforded witnesses in workplace investigations and that without the capacity to assure witnesses of confidentiality there would be a prejudice to future investigations of a similar nature.

The Department also put forth the position that the investigator's notes contained personal information in the form of personal views/opinions obtained during an official investigation and this personal information was exempted from disclosure by section 30(1).

The Commissioner discussed the Department's reliance on paragraph (c) of section 22(1) which allows a public body to deny access to information the disclosure of which could reasonably be expected to reveal investigative techniques or procedures currently used or likely to be used in law enforcement. The Commissioner noted that the investigative techniques and procedures used in the investigation involved interviewing and obtaining statements from the Applicant, the Respondent, as well as four management employees of the Department. The Commissioner stated that these techniques and procedures are routinely used in workplace investigations, and he found that the disclosure of the notes would not, therefore, reveal any specialized or covert investigative techniques or procedures. As a result, the Commissioner determined that the Department was not entitled to rely on the exception set out in paragraph (c) of section 22(1) to deny access to the investigator's notes.

The Commissioner also discussed the Department's reliance on paragraph (d) of section 22(1) to deny access to the investigator's notes. Paragraph (d) allows a public body to refuse access to information which could reasonably be expected to reveal the identity of a confidential source of law enforcement information or reveal information provided by that source with respect to a law enforcement matter. The Commissioner noted that the Department had disclosed to the Applicant all the sources of

information for the workplace investigation and, therefore, there were no confidential sources of information. As such, the Department was not entitled to rely on paragraph (d) to deny access to the investigator's notes.

The Commissioner commented on the position taken by the Department regarding confidentiality in workplace investigations. The Commissioner stated that there is no separate exception to disclosure in the *ATIPPA* dealing specifically with confidential information provided during workplace investigations. However, the Commissioner noted that there are particular exceptions to disclosure set out in the *ATIPPA* which could in certain circumstances allow a public body to refuse access to information gathered during a workplace investigation.

In relation to the Department's reliance on section 30(1) to deny access to personal information in the notes, the Commissioner found that there was certain personal information in those notes which was prohibited from disclosure by section 30(1). The Commissioner recommended release of the investigator's notes to the Applicant, while a small amount of personal information of persons other than the Applicant was recommended to be severed.

The Department made a decision not to follow the recommendation of the Commissioner. As a result, the Commissioner, with the consent of the Applicant, filed an appeal of the Department's decision with the Supreme Court of Newfoundland and Labrador, Trial Division. Subsequent to the filing of the appeal, the Department agreed to follow the Commissioner's recommendation and the appeal was abandoned by the Commissioner.

Report A-2009-001 – Executive Council

The Applicant applied to Executive Council under the *ATIPPA* for access to the subject lines for all e-mails to and from seven people in the Premier's Office for a one month period and the subject lines for all e-mails exchanged between two other individuals for the period January 1, 2005 to December 31, 2005. Executive Council refused the Applicant's request in accordance with sections 8(2) and 10(1)(b) of the *ATIPPA*. The Commissioner found that while section 8(2) did not apply, section 10(1)(b) did apply. The number of the e-mails encompassed by the request was initially estimated to be about 70,000. However, when Executive Council was asked to substantiate this estimate and had the Office of the Chief Information Officer track the volume of e-mails received by the individuals named in the request (or alternatively, the volume of e-mails of the person now occupying the position of a named individual where the named individual no longer worked in Executive Council) the number of e-mails encompassed by the request was over 119,000. At a rate of 500 e-mails per day, it would take about 8 months to process the request. During this period, the person or persons charged with reviewing and redacting the record would not be able to attend to other *ATIPP* requests or other work they may be tasked with. Other applicants would therefore be disadvantaged. Access to information is a right guaranteed by section 7 of the *ATIPPA* and this right is guaranteed to everyone equally. It is also important to note that this time estimate does not include the time it would take to search for, locate and retrieve the actual e-mails. The Commissioner found that this was an unreasonable interference with the operations of Executive Council.

The Commissioner further noted that meaningful participation in the access to information process by both parties is essential if the process is to work properly. In the present case, the Department did not simply state that they would not provide the information. It offered to process the request if the Applicant could narrow the scope of his request, perhaps by subject matter, or time frame. The Applicant declined to do so. Even breaking the Applicant's request down into several smaller requests would have made it significantly more manageable because smaller requests submitted at delayed or staggered intervals would enable the Department to respond to each request within the legislated timeline. While there is nothing in the *ATIPPA* that requires this staggering of requests, this was the Commissioner's suggestion to the Applicant in the interest of fairness and reasonableness. The request involved a considerable volume of material, and according to the estimate provided, there was no way the Department could possibly respond to the request within the legislated timelines, even allowing for the allotment of extra staff and the 30 day extension of time permitted by section 16 of the *ATIPPA*.

The Commissioner emphasized the fact that each request for information must be assessed separately and on its own merits with respect to section 10. One applicant may have 10 access requests for a particular public body or 10 applicants may have one request each. A public body is only permitted to claim section 10 where an individual access request would interfere unreasonably with the operations of the public body. To purport to apply section 10 where the aggregate number of access requests interferes unreasonably with the operations of the public body would defeat

the purpose of the legislation. If a public body were to find that it was unable to adequately respond to and process the volume of access requests received, then it would be appropriate to allocate additional resources to the processing of access requests. Claiming section 10 would not be appropriate in these circumstances, as this section only contemplates the burden each individual access request places on a public body. The very nature of an access to information request may be to interfere somewhat with “normal” daily activities of an organization, however, the right of access to information is an important one and should not be lightly curtailed. The Commissioner made no recommendations to the Department and no appeal was filed with the Supreme Court Trial Division.

Report A-2009-002 – Memorial University of Newfoundland

The Applicant applied to Memorial University under the *ATIPPA* for access to her own personal information contained within the Report of an investigation into the employment experience of a named assistant professor (the “Katz Report”). In the copy of the Katz Report provided to the Applicant, the vast majority of information was redacted in accordance with section 30. Memorial argued that any assumption that the *ATIPPA* supports a bias in favour of disclosure would lead to “unsupportable interpretations of the Act’s definitions.” Memorial also argued with respect to personal information that other information from which one can infer the identity of a referenced individual (in addition to information that would directly identify an individual), must also be redacted in keeping with section 30. Memorial also took issue with the position of this Office (outlined in

Report 2007-003) that personal information cannot be “disclosed” to an Applicant if the information is already known to the Applicant. Memorial argued that once information is in the custody of a public body it is a record and can only be disclosed in accordance with Parts II and III of the *ATIPPA*. “Any attempt to incorporate a narrow definition of the word ‘disclose’ into an analysis of what can be disclosed is ... an attempt to incorporate a ‘harms’ test into the Act that does not exist.”

The Commissioner found that there is indeed a presumption in favour of disclosure inherent in the *ATIPPA*. The Commissioner stated that the legislation is meant to promote disclosure of information while allowing the protection of personal information where it is appropriate to do so. Public bodies must, as a general rule, provide access to information and only protect what is absolutely necessary, rather than deny access and only disclose what is absolutely necessary. The Commissioner stated that while Memorial was quite right in its assertion that there is no “harms test” in the legislation and no discretion to apply a “reasonableness test” or a balancing of access and privacy interests, legislation should also be interpreted in a manner that avoids absurdity. Absurdity would certainly be the result if an applicant were denied access to information that she supplied to the public body herself. This is especially true in a case like this one, where the Applicant’s correspondence (and in some instances, direct quotes) to Memorial was relied on, in part, to form Dr. Katz’s opinions and conclusions. The Applicant did not take part in this investigation, and her correspondence was not sent to or received from Memorial as part of the investigation. When the investigation was initiated, Memorial provided this correspondence to Dr. Katz.

The Commissioner stated that it was absurd that the *ATIPPA* should be interpreted to prevent the Applicant from having access to this information that she herself provided to Memorial for purposes completely unrelated to the investigation. Failure to provide the Applicant with this information would certainly produce “confusion or inconsistency or undermine the efficient operation” of the *ATIPPA*. The Commissioner found support for this position in decisions from the British Columbia, Ontario and Nova Scotia Commissioners’ Offices. Further, the Commissioner found, after careful consideration of the meaning of “disclose” that a “plain meaning” interpretation of section 30(1) also allows for the disclosure of personal information to an Applicant where it is objectively clear that the Applicant already knows what the information is and to whom it pertains, such as in this instance where the Applicant was the initial source of the information. Therefore, the Commissioner found that where there is objective, concrete, and clear evidence that the information is already known to an Applicant, or is readily available to an Applicant, there is no “disclosure” of information as contemplated by section 30. In this case, the Applicant provided the information to the Public Body and thus already knew the information and the individual(s) involved. As a result, it was recommended that Memorial release to the Applicant some of the information that it had previously withheld pursuant to section 30. Memorial accepted the Commissioner’s recommendations and provided additional information to the Applicant.

Report A-2009-009 – Town of Steady Brook

The Applicant requested a copy of a tape recording of a public meeting of the Town Council, including

a conversation between himself and the Mayor that occurred immediately after the adjournment of the meeting. This conversation had been recorded when the tape was left running by the Town’s Administrative Assistant. Immediately after the public meeting, a privileged meeting of Council was held. The Town argued that the conversation took place during the privileged meeting and was therefore exempt from disclosure pursuant to section 19(1)(c) of the *ATIPPA*. Section 19(1)(c) states that a municipality may refuse to disclose information that would reveal the substance of deliberations of privileged or closed council meetings.

In brief, the Town presented four arguments. First, it argued that two sets of notes taken at the public meeting indicated it ended immediately following the discussion of the last item on the agenda and if the public meeting had continued beyond this, additional notes would have been taken on the subsequent discussions. The Town also argued that the Applicant also believed the public meeting had ended prior to the conversation taking place, given the way his access request was worded. Third, the Town argued that the Department of Municipal Affairs (which also reviewed the tape in question) decided that the conversation occurred after the adjournment of the meeting. Finally, the Town argued that although the tape does not indicate a “mover” or a “second,” with respect to the motion for adjournment, it is normal practice for participants to raise their hands to indicate these things, as well as to vote. Therefore, the Town’s position was that the public meeting was properly adjourned when the Mayor first called for the adjournment.

The Commissioner agreed that determining when the public meeting ended and/or when the privileged meeting began was an important starting point. If the public meeting was still ongoing, then section 19 was not applicable, as there was no privileged meeting involved. However, even if the conversation took place during a privileged meeting that would not be the end of the matter. As noted above, only that information which reveals the substance of deliberations of a privileged meeting is exempt from disclosure under section 19. The Town offered no evidence or argument with respect to this point. The Commissioner held that the conversation to which the Applicant sought access did not occur during a privileged meeting, either because the public meeting of Council had not been properly adjourned or the privileged meeting had not started. Even if the conversation had occurred during a privileged

meeting, the Town was still not entitled to rely on section 19, as they had provided no evidence with respect to how disclosure of the requested record would reveal the substance of deliberations of the privileged meeting. Therefore the Town did not meet the burden of proof imposed on it by section 64 of the *ATIPPA*. Further, while there was no evidence with respect to the substance of deliberations of the privileged meeting, there was some evidence before the Commissioner as to the subject of the privileged meeting (put forward by the Applicant), and given the subject of the privileged meeting, the conversation at issue could not reveal the substance of deliberations of the privileged meeting, as the two were not related. The Commissioner therefore recommended that the information be released to the Applicant. The Town accepted the Commissioner's recommendations and released the information to the Applicant.



Lionel Clarke
Access & Privacy Analyst

Sean Murray
Assistant Commissioner

Ed Ring
Commissioner



As indicated in our previous Annual Reports, this Office has, on occasion, appeared before the Supreme Court of Newfoundland and Labrador. This Office may become involved in an appeal in one of three ways. In accordance with section 61(2) of the *ATIPPA*, this Office may intervene in a court proceeding where i) the applicant directly appeals the decision of a public body in relation to his/her access request to the Supreme Court pursuant to section 43(3) of the *ATIPPA*, or ii) the applicant appeals the decision of a public body in respect of a Report of the Commissioner pursuant to section 60(1). Alternatively, in accordance with section 61(1), with the consent of the applicant or third party involved, this Office may appeal the decision of a public body in respect of a Report of the Commissioner.

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

2007 04T 0456 - Supreme Court of Newfoundland and Labrador, Trial Division - College of the North Atlantic (CNA)

Following the denial of her access request by CNA, the Applicant filed a Notice of Appeal pursuant to section 43(3) on grounds of section 9 (duty to assist), section 11 (time limit for response); and section 16 (extension of time limit). The Applicant also claimed that CNA erred in relying on the exceptions it claimed. This Office became an intervenor pursuant to section 61(2). Some of the records responsive

to the Applicant's request contain communications between this Office and the Public Body from informal resolution efforts as part of a previous matter reviewed by this Office. The outcome of this matter may affect the ability of this Office to properly conduct its informal resolution process if our Office is unable to undertake confidential communications separately on a "without prejudice" basis with both applicants and public bodies. This Office wishes to provide information to the Court with regard to the interpretation of the *ATIPPA* and the processes employed by this Office in carrying out its mandate. Facts, briefs and/or other legal documents are presently being filed with the Court.

2008 04T 0465 - Supreme Court of Newfoundland and Labrador, Trial Division - Public Service Commission (PSC)

Following the denial of her access request by the PSC, the Applicant filed a Notice of Appeal pursuant to section 43(3) on grounds of section 9 (duty to assist), section 11 (time limit for response), and section 12(1)(c)(i) (failure to inform the Applicant of which sections of the *ATIPPA* were being claimed). The Applicant also claimed that the PSC erred in relying on the exceptions it claimed. This Office became an intervenor pursuant to section 61(2). This Office wishes to provide information to the Court with regard to the interpretation of the *ATIPPA* and relevant decisions of this Office. Facts, briefs and/or other legal documents are presently being filed with the Court.

2008 01T 0515 - Supreme Court of Newfoundland and Labrador, Trial Division - Town of Portugal Cove-St. Philip's

This matter was discussed in our 2007-2008 Annual Report. In response to the decision of the Town of Portugal Cove-St. Philip's not to follow the recommendations of the Commissioner, the Applicant filed an Appeal with the Court. This Office became an intervenor pursuant to section 61(2). This Office has an interest in this matter in that the Town claimed an additional exception under the ATIPPA during the Appeal and this Office wishes to provide information with regards to the interpretation of the ATIPPA. The matter is to be heard in April, 2009 before the Honourable Madame Justice Dunn, and the outcome will be reported in our next Annual Report.

2008 01T 2287 - Supreme Court of Newfoundland and Labrador, Trial Division - Public Service Secretariat (PSS)

This matter was discussed in our 2007-2008 Annual Report. In response to the decision of the PSS not to follow the recommendations of the Commissioner, this Office filed an Appeal with the Court in accordance with section 61(1) with the consent of the Applicant. The PSS indicated that the recommendations would not be followed as the information recommended for release was subject to litigation privilege. The matter will be reported on in our next Annual Report.

2008 01T 2709 - Supreme Court of Newfoundland and Labrador, Trial Division - Department of Transportation and Works

In response to an access request, the Department of Transportation and Works withheld information related to a workplace investigation, arguing that the release of the information would breach confidentiality and would prejudice future investigations. The Department also indicated that privilege may apply. The Commissioner's Report into the matter found that there is no specific exception from disclosure related to workplace investigations in the ATIPPA. Additional information was recommended for release. The Department did not follow the Commissioner's recommendations. An appeal was commenced by this Office in accordance with section 61(1) with the consent of the Applicant. This Office has an interest in this matter, because in our view the Department was attempting to import into the ATIPPA an exception which does not exist. Prior to the hearing, the Department agreed to comply with the Commissioner's recommendations and a Notice of Discontinuance was filed.



Sean Murray
Assistant Commissioner

2009 OIT 0704 - Supreme Court of Newfoundland and Labrador, Trial Division - Department of Justice

Two Applicants filed separate Requests for Review with this Office in relation to information which was requested from and denied by the Department of Justice and the Royal Newfoundland Constabulary ("RNC"). Pursuant to sections 52(2) and (3) of the ATIPPA, this Office requested a copy of the responsive records so that it could commence informal resolution in accordance with our mandate. The Department and the RNC denied this Office access to the responsive records arguing that the records related to an ongoing prosecution and, pursuant to section 5, were outside of the jurisdiction of this Office. An Application was brought by the Department for a declaration as to the proper interpretation of section 5(1). This matter is set was heard in April, 2009 before the Honourable Mr. Justice Fowler. The Applicants' files are in abeyance until that time.

2009 OIT 1345 - Supreme Court of Newfoundland and Labrador, Trial Division - Department of Justice

The Applicant filed a Request for Review with this Office in relation to information which was requested from and denied by the Department of Justice. Pursuant to sections 52(2) and (3) of the ATIPPA, this Office requested a copy of the responsive records so that it could commence informal resolution in accordance with our mandate. The Department delayed in providing a response to this Office and eventually denied this Office access to the responsive records, arguing that the records were subject to solicitor-client and litigation privilege. The Department contended that despite section 52(2) and (3) the powers of the Commissioner do not include the power to compel privileged records. An Application was brought by the Department for a declaration as to the proper interpretation of section 52(3). The matter will be heard in October 2009. The Applicant's file is in abeyance until that time.



Suzanne Orsborn
Access & Privacy Analyst

Stacey Grant
Access & Privacy Analyst

Suzanne Hollett
Access & Privacy Analyst



As indicated earlier in this Report, providing information on access and privacy to the general public and to interest groups has and continues to be an important mandate of this Office. During the 2008/2009 reporting period, it was our goal to put some energy and resources into this requirement. To highlight this commitment, I am pleased to report that 16 locations within the Province of Newfoundland and Labrador were identified as potential information session locations and that all 16 communities were visited and briefings delivered. It would be fair to say that the turn-out at the sessions was mixed although it is felt that appropriate and adequate advertising through the various forms of media print, radio, television, etc, was conducted. It was clear, through this initiative, that much more needs to be done in that regard as the culture in this Province surrounding access and privacy is in its infancy and will clearly mature as citizens become more aware of the legislation and their rights under it.

The details concerning the 16 locations visited is covered under the Education and Awareness section of this Report, on page 7.

Similar to the requirement for the Office of the Information and Privacy Commissioner to educate the public on the legislation (*ATIPPA*), little, if any, time and resources were previously available to research and develop operational policies and procedures to guide the work of the Office. A concentrated effort was made during this reporting period to address this requirement and I am pleased to say that significant

progress has been made in that regard. The next section of this Report provides a glimpse into one of these policies, called the banking policy. I will not elaborate further on the developed policies and procedures as they are in the trial stage at this time, however, over the next several months the minor modification and amendments that may be necessary will be made and the policies will become the official policies and procedures of the Office.

The list of operational Policies and Procedures currently under development are as follows:

1. Assignment of Files
2. Banking Policy
3. Informal Resolution
4. Claiming Exceptions
5. Extension of Time Frame for Informal Resolution
6. Decision to Move to Formal Investigation
7. Use of Information Collected During the Informal Resolution
8. Decision to Prepare a Privacy Report
9. Follow up on Recommendations in a Commissioner's Report
10. Decision to Proceed to Court
11. Decision to Close a File Early
12. Working with the Media
13. Privacy and Information Security



Banking Policy - Background

Shortly after the Office of the Information and Privacy Commissioner began its function, two Applicants over a short period of time inundated the Office with requests. By late 2006 early 2007, these Applicants accounted for more than 50% of the workload of the Office. In the summer of 2007 the Commissioner (my predecessor) based on the volume of work presented by these two Applicants and a requirement to provide fair and equitable services to the remainder of the applicants applying to the Office, the Commissioner suspended the right of these Applicants to submit any further Requests for Review to the OIPC until the large outstanding number of requests were concluded. As a result, these Applicants filed with the courts objecting to their rights under the Act (ATIPPA) being unilaterally suspended. The subsequent court case was heard over two days during late 2007 and early 2008. The decision of the court was favorable to the Applicants and essentially concluded that citizens should not be deprived of their rights under ATIPPA due to either the administrative or work load issues in this Office. The judge further strongly recommended that some sort of a banking system be implemented that would allow these Applicants to exercise their rights under the Act and further allow the OIPC to manage the work load of the Office in a measured and balanced manner thus allowing all citizens of the Province to have their access requests and complaints actioned in an efficient and timely manner.

As this particular policy was recommended by a court decision and is currently in effect, it is provided in its entirety for your information.

Policy 2: Banking Policy

Policy Statement

If the Office of the Information and Privacy Commissioner (OIPC) is currently working on five files from the same Applicant, the Office has the discretion to place the next Request for Review (ATIPPA section 43) received from the same Applicant in a "bank".

Purpose

The purpose of this policy is to ensure Access & Privacy Analysts have sufficient opportunity to address Requests for Review from other applicants and not to focus all efforts on the files of a few applicants submitting multiple requests.

Scope

This policy applies to all Requests for Review received by the OIPC. This policy applies equally to another person who is believed by the OIPC to be acting on behalf of the same applicant.

Procedure

1. Requests for Review received by the OIPC will be processed by administrative staff according to the OIPC Office Policy and Procedures Manual (ie. to record in the database and assign a file number). All Requests for Review received from the same applicant will be considered in the counting of the number of files from that applicant.

2. The file will then be forwarded to the Senior Access & Privacy Analyst for review and assignment to an Access & Privacy Analyst.
3. The Senior Access & Privacy Analyst will consider the following factors when determining whether to use the banking policy; the factors include, but are not limited to:

- The current caseload of the OIPC. If there are sufficient resources within the OIPC to handle the overall case load within statutory time frames, it may not be necessary to utilize the banking policy.
- If any new files received over and above a group of five or more active files from the same applicant that deal with similar or inter-related records, discretion may be used to accept the new files as active files in order to work on the newer and older files together.
- If the applicant indicates an urgency for the file to be resolved. Discretion may be used to consider such things as cases that are time sensitive in nature or cases that are proceeding to court.
- When a new Request for Review is received from an applicant who has five or more active files presently with the OIPC, the new file should receive an initial assessment to consider whether the file appears to have a high potential for informal resolution. If so, informal resolution may be pursued, but if efforts

are unsuccessful, the file may then be moved to the bank. Once a banked file has been removed and becomes active, informal resolution may still be pursued at that time. (The noted factors should be considered with discretion and without any single factor being entirely determinative.)

4. If it is determined that the banking policy applies, the Access & Privacy Analyst will contact the public body and the applicant to inform them of the banking policy and the potential for the file to be moved to the bank. As per the regular procedure, a letter will be sent to the public body requesting the required documentation.
5. When the records are received from the public body, the Access & Privacy Analyst and the Senior Access & Privacy Analyst will review the records to consider whether there is a high potential for informal resolution or if the file should be banked. The Access & Privacy Analyst will send a letter informing the public body and the applicant of the decision.
6. When one of the active files from the same applicant has been closed, the first banked file will be removed, and it will become active. This file will be directed to the Senior Access & Privacy Analyst for re-assignment. The assigned Access & Privacy Analyst will send a letter to notify the public body and the applicant that the file has been removed from the bank to become an active file. The informal resolution process will proceed.

Conclusion



2008-2009 has been a busy, productive and gratifying year, filled with challenges and success. This year has seen another phase in both the evolution of the Office resources and capability, along with a significant increase in its workload requirements. The additional work associated with the proclamation into force of Part IV of the ATIPPA (the privacy provisions) in January 2008 has further compounded and to some extent frustrated the Office's ability to meet certain legislated timeframes. That being said, I am proud of the quality and calibre of the Office of the Information and Privacy Commissioner staff and I continue to be impressed with the dedication, hard work and positive attitude of all staff. We will continue to strive in the coming year to improve the services provided to the citizens of Newfoundland and Labrador, and to achieve greater progress in the ongoing mandate to preserve and promote their rights of access to information and protection of privacy.



Suzanne Hollett
Access & Privacy Analyst



Ed Ring
Commissioner

Jacquie Brown
Business Manager

APPENDIX "A"

STATISTICS



Figure 1: Requests for Review/Complaints Received

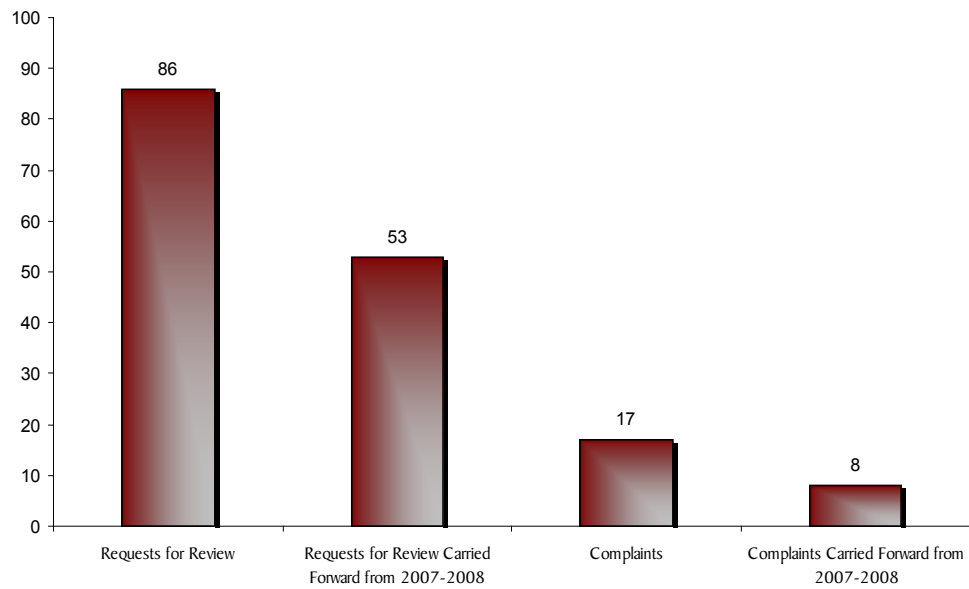


Figure 2: Outcome of Requests for Review/Complaints Received

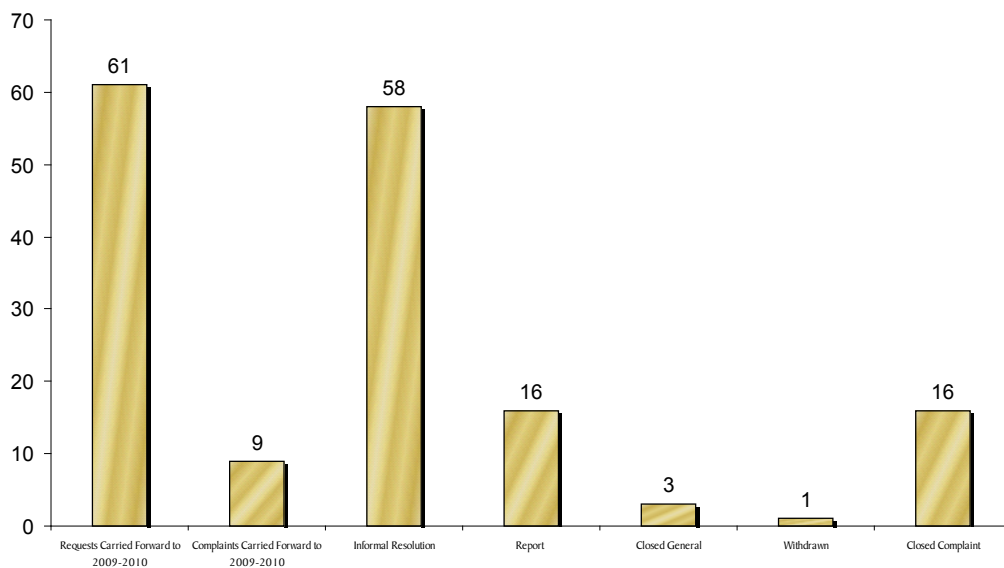




Figure 3: Requests for Review/Complaints by Applicant Group

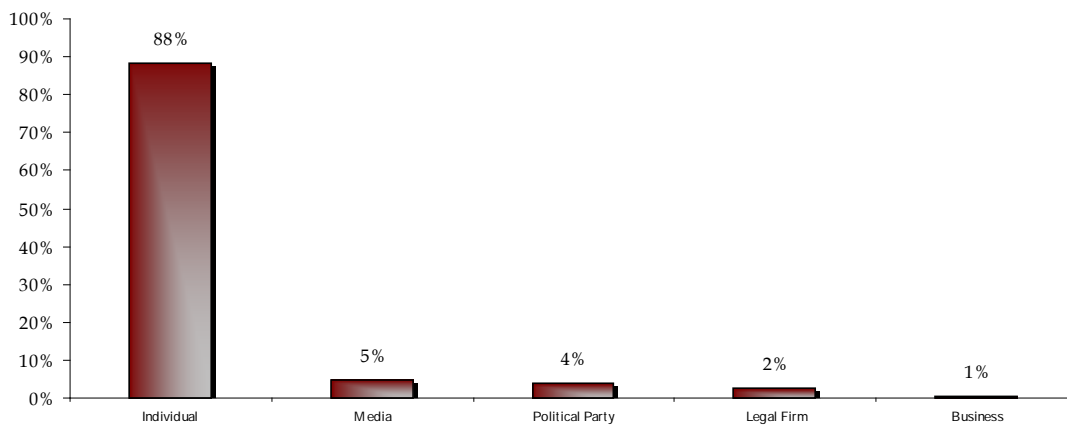


Table 1: Requests for Review/Complaints by Applicant Group

Public Body	Number of Reviews	Percentage
Individual	145	88%
Media	8	5%
Political Party	6	4%
Legal Firm	4	2%
Business	1	1%



Figure 4: Requests for Review/Complaints by Information Requested

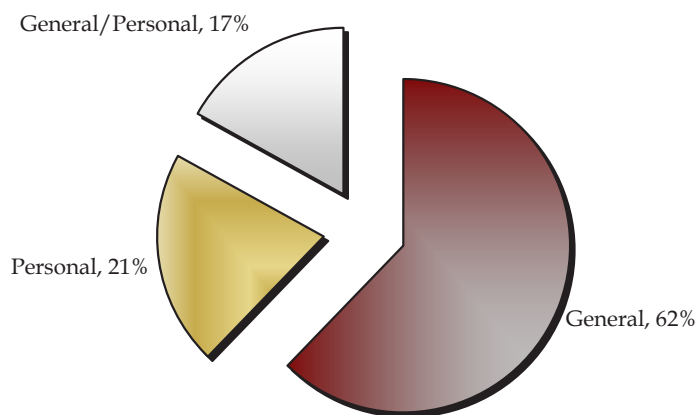


Table 2: Requests for Review /Complaints by Information Requested

General	Personal	General/Personal
102	34	28
62%	21%	17%



Figure 5: Requests for Review - Resolutions

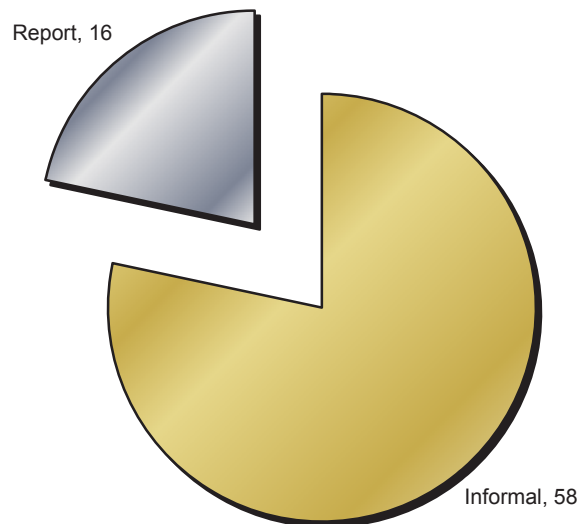


Table 3: Requests for Review - Resolutions

Informal	Report
58	16
78%	22%



Figure 6: Conclusion of Commissioner's Reports

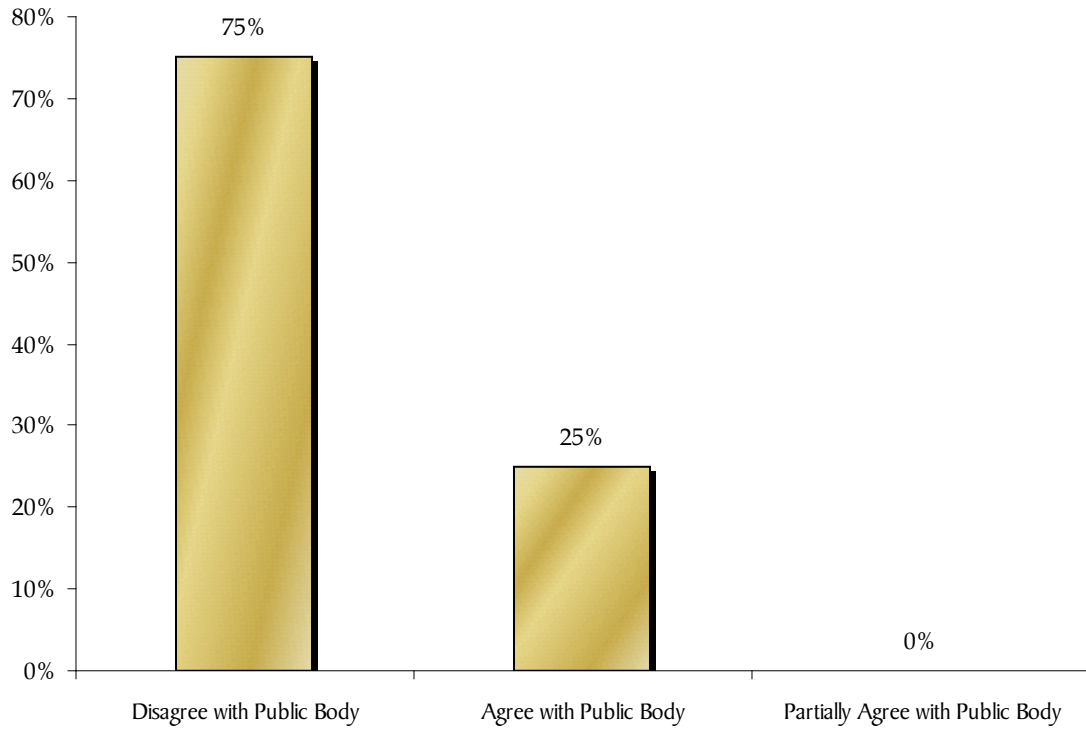


Table 4: Conclusion of Commissioner's Reports

Disagree with Public Body	12	75%
Agree with Public Body	4	25%
Partially agree with Public Body	0	0%



Figure 7: Public Body Response to Commissioner's Reports

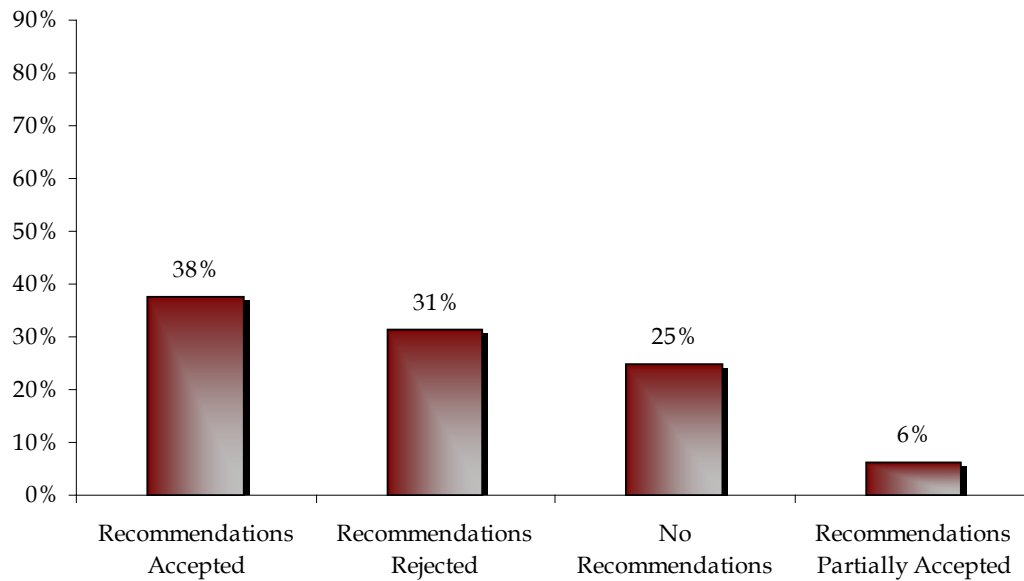


Table 5: Public Body Response to Commissioner's Reports

Recommendations Accepted	6	38%
Recommendations Rejected	5	31%
No Recommendations	4	25%
Recommendations Partially Accepted	1	6%



Figure 8: Public Body Covered by Requests for Review/Complaints

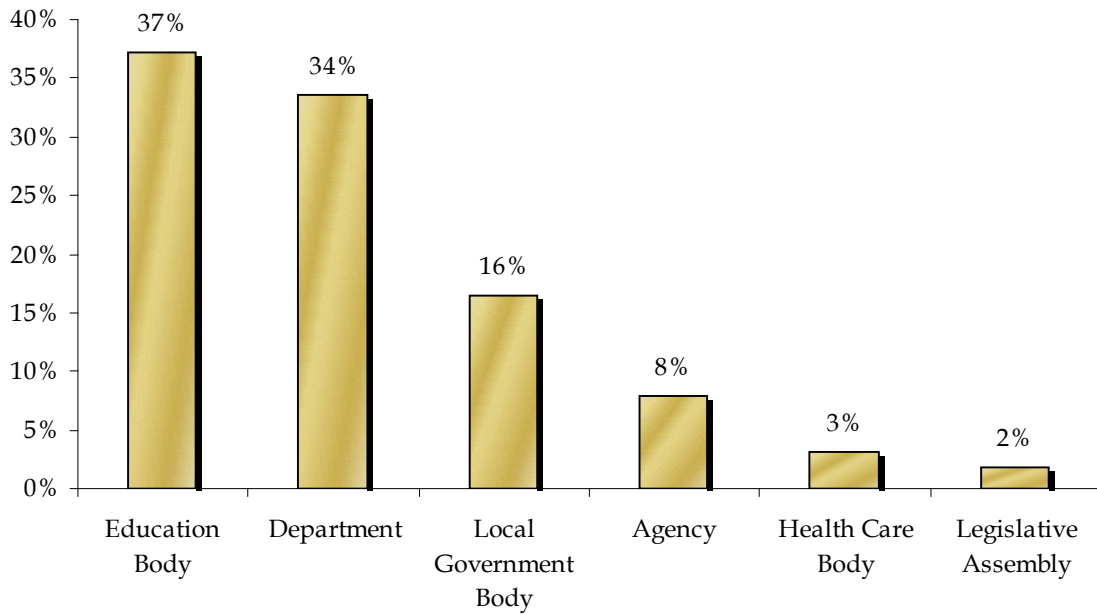


Table 6: Public Body Covered by Requests for Review/Complaints

Education Body	61	37%
Department	55	34%
Local Government Body	27	16%
Agency	13	8%
Health Care Body	5	3%
Legislative Assembly	3	2%



Figure 9: Requests for Review/Complaints by Issue*

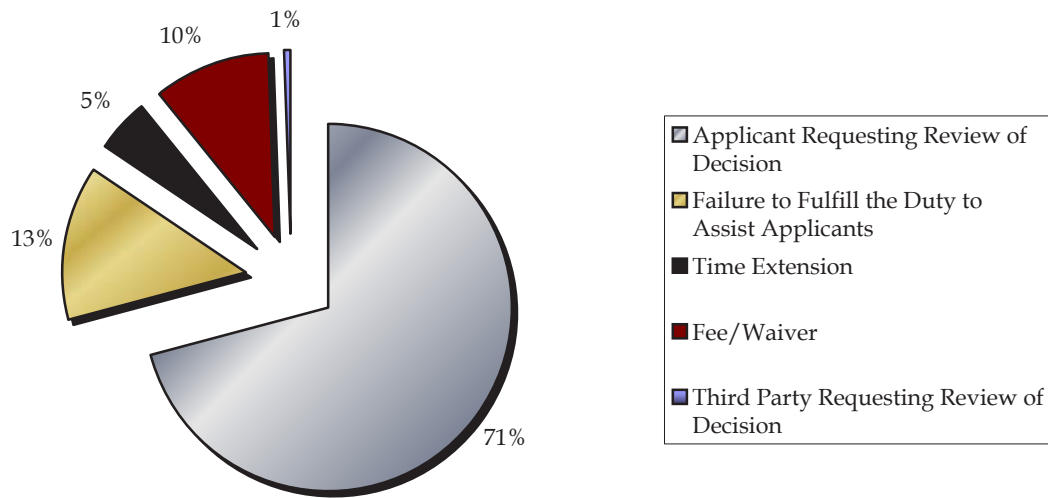


Table 7: Requests for Review/Complaints by Issue*

Applicant Requesting Review of Decision	132	71%
Failure to Fulfill the Duty to Assist Applicants	25	13%
Time Extension	9	5%
Fee/Waiver	19	10%
Third Party Requesting Review of Decision	1	1%

* A Request for Review/Complaint often relates to several issues.



Figure 10: Privacy Complaints Received

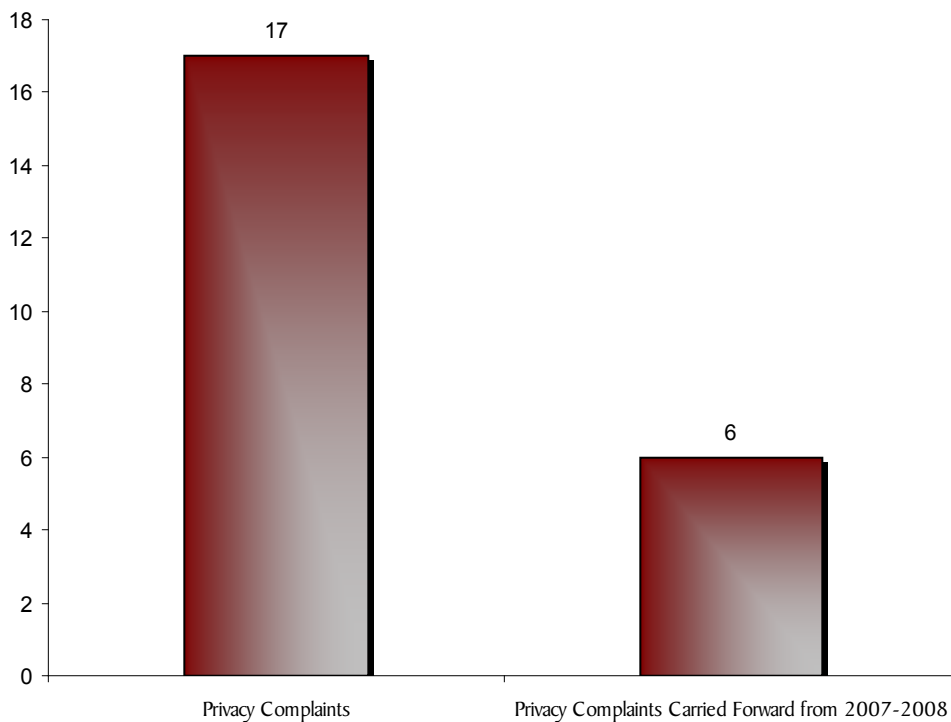


Table 8: Privacy Complaints Received

Privacy Complaints	Privacy Complaints Carried Forward 2007-2008
17	6



Figure 11: Public Body Covered by Privacy Complaints

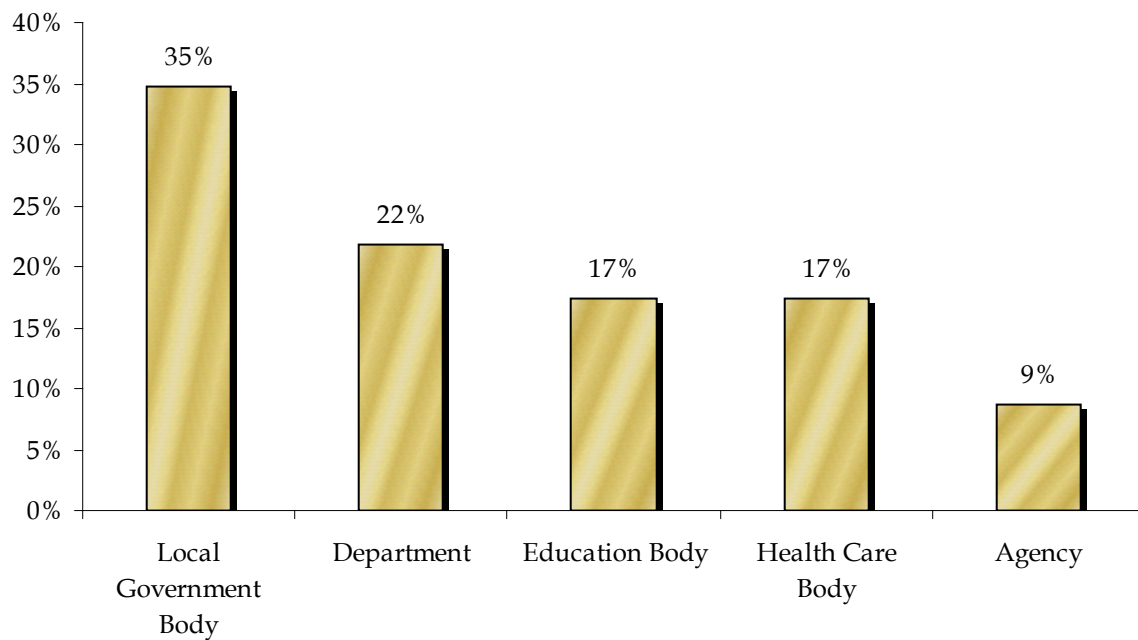


Table 9: Public Body Covered by Privacy Complaints

Local Government Body	8	35%
Department	5	22%
Education Body	4	17%
Agency	4	17%
Health Care Body	2	9%



Figure 12: Privacy Complaints by Source *

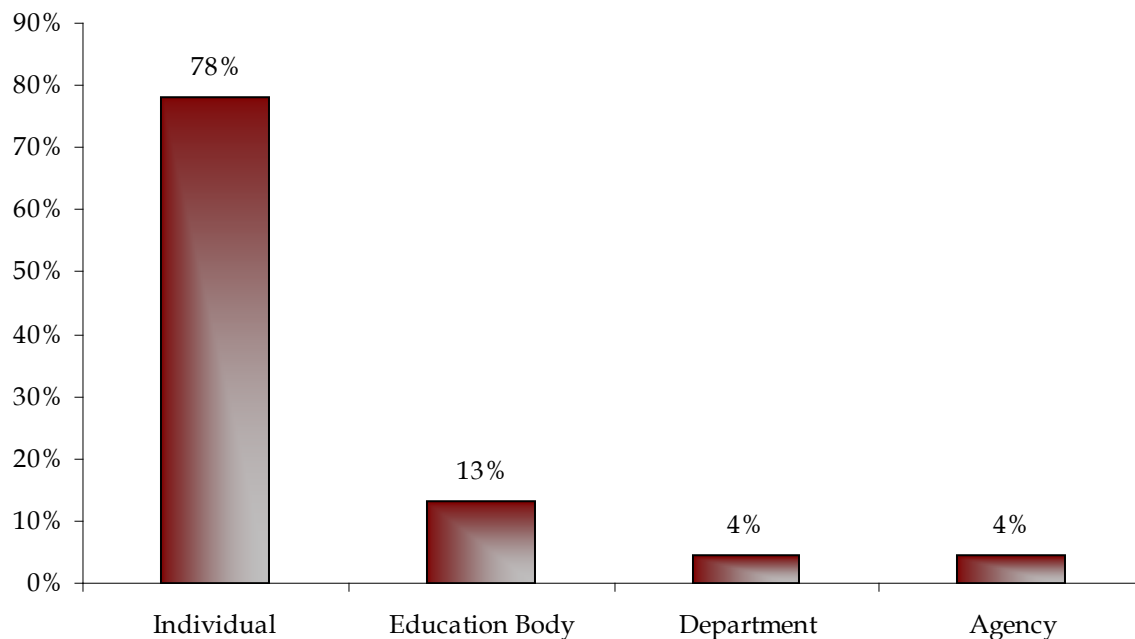


Table 10: Privacy Complaints by Source *

Individual	18	78%
Education Body	3	13%
Department	1	4%
Agency	1	4%

* In cases of the education body, department or agency, these are instances where a privacy issue was reported to the OIPC by the public body itself.



Figure 13: Outcome of Privacy Complaints

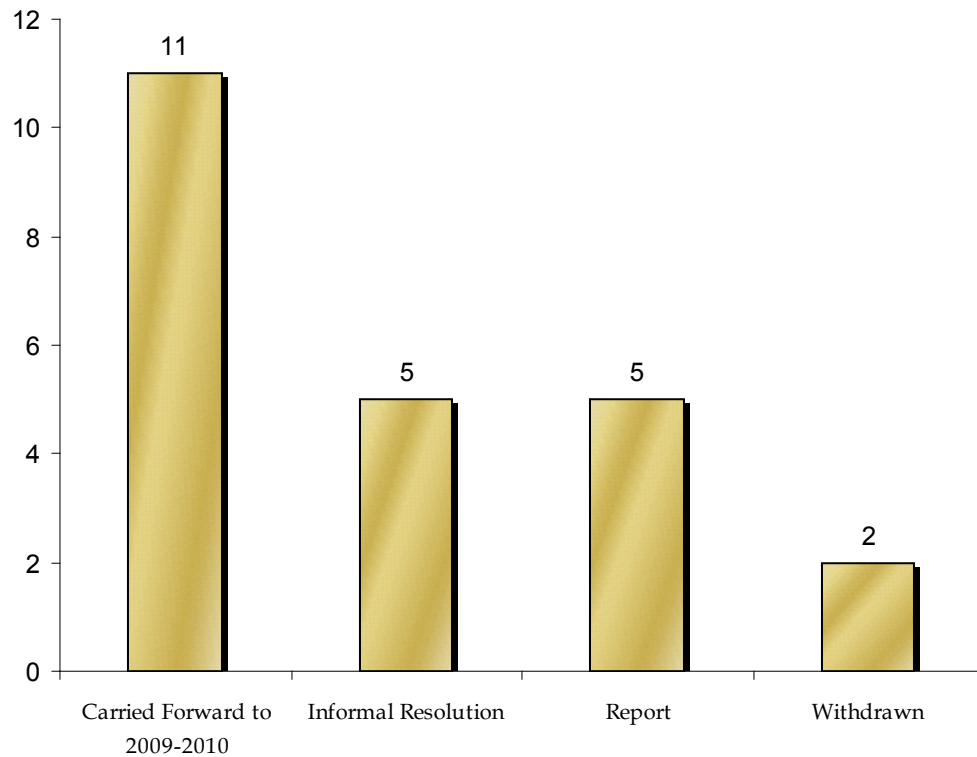


Table 11: Outcome of Privacy Complaints

Carried Forward to 2009-2010	11	48%
Informal Resolution	5	22%
Report	5	22%
Withdrawn	2	9%



Figure 14: Requests for Review/Complaints and Privacy Complaints Received

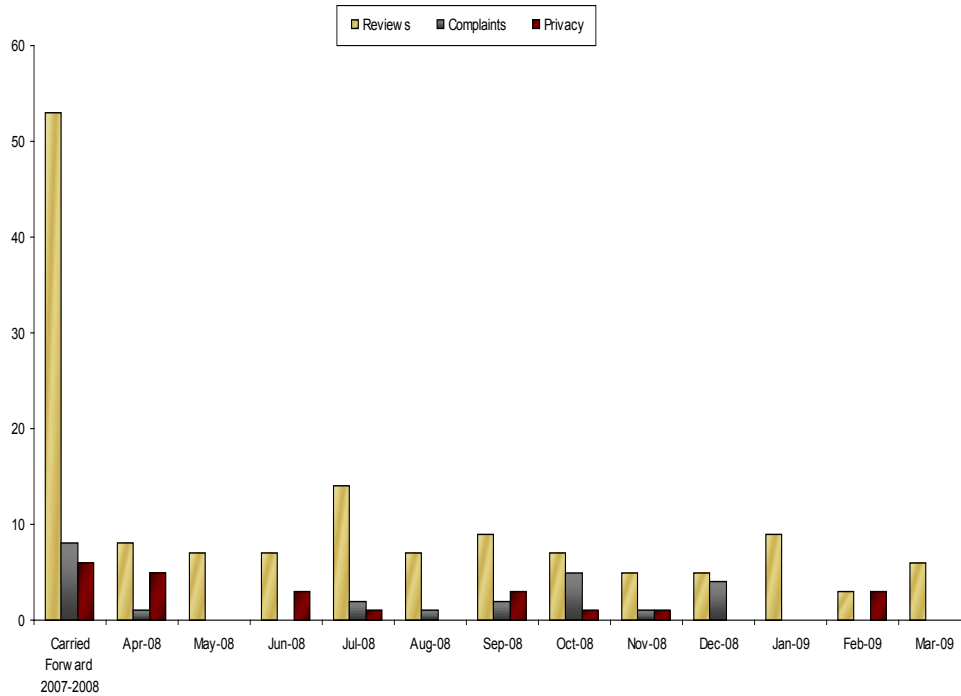


Table 12: Requests for Review/Complaints and Privacy Complaints Received

2008-2009			
	Reviews	Complaints	Privacy
Carried Forward 2007-2008	53	8	6
Apr-08	8	1	5
May-08	7	0	0
Jun-08	7	0	3
Jul-08	14	2	1
Aug-08	7	1	0
Sep-08	9	2	3
Oct-08	7	5	1
Nov-08	5	1	1
Dec-08	5	4	0
Jan-09	9	0	0
Feb-09	3	0	3
Mar-09	6	0	0



Figure 15: Access and Privacy Inquiries

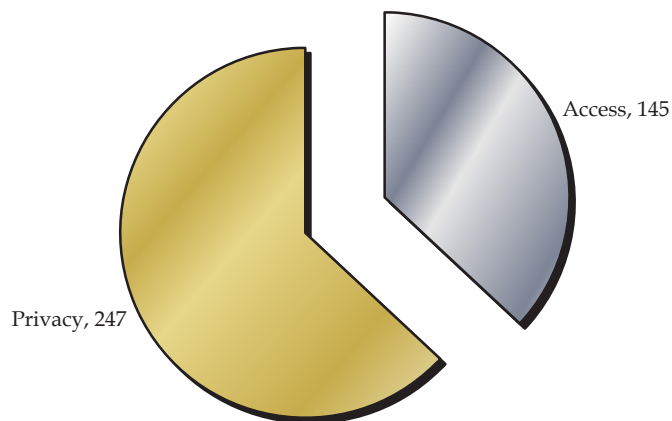


Table 13: Access and Privacy Inquiries

Access	Privacy
145	247
37%	63%

APPENDIX "B"

LIST OF PUBLIC BODIES

(provided by ATIPP Coordinating Office, Department of Justice)

Note: This list will constantly be a work in progress due to the requirement from time-to-time to add new public bodies and possibly remove others.

Government Departments

Business	Health and Community Services
Child, Youth and Family Services	Human Resources Labour and Employment
Education	Innovation Trade and Rural Development
Environment and Conservation	Justice
Executive Council - Cabinet Secretariat	Labrador and Aboriginal Affairs - Labrador Affairs
Executive Council - Intergovernmental Affairs	Labrador and Aboriginal Affairs - Aboriginal Affairs
Executive Council - Public Service Secretariat	Municipal Affairs
Executive Council - Office of the Chief Information Officer	Natural Resources - Mines and Energy
Executive Council - Rural Secretariat	Natural Resources - Forestry
Executive Council - Women's Policy Office	Natural Resources - Agrifoods
Executive Council - NL Research and Development Council	Premier's Office
Finance	Public Service Commission
Fisheries and Aquaculture	Tourism Culture and Recreation
Government Services	Transportation and Works

Agencies, Education and Health Boards

Arts and Letters Committee	Chicken Farmers of Newfoundland and Labrador
Board of Commissioners of Public Utilities	Churchill Falls (Labrador) Corporation
Building Accessibility Advisory Board	Classification Appeal Board
Bull Arm Fabrication Site	College of the North Atlantic
Business Investment Corporation	Commissioner of Lobbyists
C.A. Pippy Park Commission	Conseil scolaire francophone provincial de Terre-Neuve-et-Labrador
Central Health Authority	Credit Union Deposit Guarantee Corporation
Central Newfoundland Regional Appeal Board	Criminal Code Mental Order Review Board

Agencies, Education and Health Boards (cont'd)

Eastern Health Authority	Lower Churchill Development Corporation Limited
Eastern Newfoundland Regional Appeal Board	Management Classification Review Committee
Eastern School District	Marble Mountain Development Corporation
EDGE Evaluation Board	Memorial University of Newfoundland
Embalmers and Funeral Directors Board	Mental Health Review Board
Farm Industry Review Board	Mineral Rights Adjudication Board
Fish Processing Licensing Board	Minister's Advisory Committee for the Child, Youth and Family Services Act
Forest Land Tax Appeal Board	Multi-Materials Stewardship Board
Government Money Purchase Plan Committee	Municipal Assessment Agency
Government Purchasing Agency	Nalcor Energy Corporation of Newfoundland and Labrador
Group Insurance Committee	Newfoundland and Labrador Arts Council
Gull Island Power Company Limited	Newfoundland and Labrador Centre for Health Information
Heritage Foundation of Newfoundland and Labrador	Newfoundland and Labrador Chiropractic Board
Human Rights Commission	Newfoundland and Labrador Crop Insurance Agency
Income and Employment Support Appeal Board	Newfoundland and Labrador Farm Products Corporation
Ireland Business Partnerships Advisory Board	Newfoundland and Labrador Film Development Corporation
Judicial Council of the Provincial Court of Newfoundland and Labrador	Newfoundland and Labrador Geographical Names Board
Labour Relations Board	Newfoundland and Labrador Historic Commemorations Board
Labrador Health Authority	Newfoundland and Labrador Hydro
Labrador Regional Appeal Board	Newfoundland and Labrador Immigrant Investor Fund Limited Board
Labrador School District	Newfoundland and Labrador Industrial Development Fund
Land Consolidation Review Committee	Newfoundland and Labrador Legal Aid Commission
Livestock Owners Compensation Board	Newfoundland and Labrador Liquor Corporation

Agencies, Education and Health Boards (cont'd)

Newfoundland and Labrador Municipal Financing Corporation	Public Safety Appeal Board
Newfoundland and Labrador Sinking Fund	RNC Public Complaints Commission
Newfoundland and Labrador Sport Centre Inc.	Royal Newfoundland Constabulary
Newfoundland and Labrador Tourism Board	Species Status Advisory Committee
Newfoundland and Labrador Youth Advisory Committee	St. John's Land Development Advisory Authority
Newfoundland Government Fund Limited	St. John's Urban Regional Appeal Board
Newfoundland Hardwoods Limited	Standing Fish Price Setting Panel
Newfoundland Ocean Enterprises Limited (Marystown Shipyard)	Student Financial Assistance Appeal Board
Nova Central School District	Student Loan Corporation of Newfoundland and Labrador
Occupational Health and Safety Advisory Council	Teachers Certification Board of Appeals
Office of the Chief Medical Examiner	Teachers Certification Committee
Office of the High Sheriff	Teachers Certification Review Board
Pension Policy Committee	The Rooms Corporation
Privacy Training Corporation	Western Health Authority
Professional Fish Harvesters	Western Newfoundland Regional Appeal Board
Professional Fish Harvesters License Appeal Board	Western School District
Province of Newfoundland and Labrador Pooled Pension Fund Investment Committee	Wilderness and Ecological Reserves Advisory Council
Provincial Advisory Council of the Status of Women Newfoundland and Labrador	Wooddale Land Development Advisory Authority
Provincial Apprenticeship and Certification Board	Workplace Health, Safety and Compensation Commission
Provincial Information Library Resources Board	Workplace Health, Safety and Compensation Review Division
Public Accountants Licensing Board	

Municipalities

Admirals Beach	Bonavista	Charlottetown (Labrador)
Anchor Point	Botwood	Clareville
Appleton	Branch	Clarke's Beach
Aquaforte	Brent's Cove	Coachman's Cove
Arnold's Cove	Brighton	Colinet
Avondale	Brigus	Colliers
Badger	Bryant's Cove	Come By Chance
Baie Verte	Buchans	Comfort Cove-Newstead
Baine Harbour	Burgeo	Conception Bay South
Bauline	Burin	Conception Harbour
Bay Bulls	Burlington	Conche
Bay de Verde	Burnt Islands	Cook's Harbour
Bay L'Argent	Campbellton	Cormack
Bay Roberts	Cape Broyle	Corner Brook
Baytona	Cape St. George	Cottlesville
Beachside	Carbonear	Cow Head
Bellburns	Carmanville	Cox's Cove
Belleoram	Cartwright	Crow Head
Bide Arm	Centreville-Wareham-Trinity	Cupids
Birchy Bay	Chance Cove	Daniel's Harbour
Bird Cove	Change Islands	Deer Lake
Bishop's Cove	Channel-Port aux Basques	Dover
Bishop's Falls	Chapel Arm	Duntara

Municipalities (cont'd)

Eastport	Gillams	Hopedale
Elliston	Glenburnie-Birchy Head-Shoal Brook	Howley
Embree	Glenwood	Hughes Brook
Englee	Glovertown	Humber Arm South
English Harbour East	Goose Cove East	Indian Bay
Fermeuse	Grand Bank	Irishtown-Summerside
Ferryland	Grand Falls-Windsor	Isle aux Morts
Flatrock	Grand Le Pierre	Jackson's Arm
Fleur de Lys	Greenspond	Joe Batt's Arm-Barr'd Islands-Shoal Bay
Flower's Cove	Hampden	Keels
Fogo	Hant's Harbour	King's Cove
Fogo Island Region	Happy Adventure	King's Point
Forteau	Happy Valley-Goose Bay	Kippens
Fortune	Harbour Breton	La Scie
Fox Cove-Mortier	Harbour Grace	Labrador City
Fox Harbour	Harbour Main-Chapel's Cove-Lakeview	Lamaline
Frenchman's Cove	Hare Bay	L'Anse au Clair
Gallants	Hawke's Bay	L'Anse au Loup
Gambo	Heart's Content	Lark Harbour
Gander	Heart's Delight-Islington	Lawn
Garnish	Heart's Desire	Leading Ticks
Gaskiers-Point La Haye	Hermitage-Sandyville	Lewin's Cove
Gaultois	Holyrood	Lewisporte

Municipalities (cont'd)

Little Bay	Morrisville	Petty Harbour-Maddox Cove
Little Bay East	Mount Carmel-Mitchells Brook-St. Catherine's	Pilley's Island
Little Bay Islands	Mount Moriah	Pinware
Little Burnt Bay	Mount Pearl	Placentia
Little Catalina	Musgrave Harbour	Point au Gaul
Logy Bay-Middle Cove-Outer Cove	Musgravetown	Point Lance
Long Harbour-Mount Arlington Heights	Nain	Point Leamington
Lord's Cove	New Perlican	Point May
Lourdes	New-Wes-Valley	Point of Bay
Lumsden	Nippers Harbour	Pool's Cove
Lushes Bight-Beaumont-Beaumont North	Norman's Cove-Long Cove	Port Anson
Main Brook	Norris Arm	Port au Choix
Makkovik	Norris Point	Port au Port East
Mary's Harbour	North River	Port au Port West-Aguathuna-Felix Cove
Marystown	North West River	Port Blandford
Massey Drive	Northern Arm	Port Hope Simpson
McIvers	Old Perlican	Port Kirman
Meadows	Pacquet	Port Rexton
Middle Arm	Paradise	Port Saunders
Miles Cove	Parker's Cove	Portugal Cove South
Millertown	Parson's Pond	Portugal Cove-St. Philip's
Milltown-Head of Bay D'Espoir	Pasadena	Postville
Ming's Bight	Peterview	Pouch Cove

Municipalities (cont'd)

Raleigh	Southern Harbour	Terrenceville
Ramea	Spaniard's Bay	Tilt Cove
Red Bay	Springdale	Tilting
Red Harbour	St. Alban's	Torbay
Reidville	St. Anthony	Traytown
Rencontre East	St. Bernard's-Jacques Fontaine	Trepassey
Renews-Cappahayden	St. Brendan's	Trinity
Rigolet	St. Bride's	Trinity Bay North
River of Ponds	St. George's	Triton
Riverhead	St. Jacques-Coomb's Cove	Trout River
Robert's Arm	St. John's	Twillingate
Rocky Harbour	St. Joseph's	Upper Island Cove
Roddickton	St. Lawrence	Victoria
Rose Blanche-Harbour Le Cou	St. Lewis	Wabana
Rushoon	St. Lunaire-Griquet	Wabush
Salmon Cove	St. Mary's	West St. Modeste
Salvage	St. Pauls	Westport
Sandringham	St. Shott's	Whitbourne
Sandy Cove	St. Vincent's-St. Stephen's - Peter's River	Whiteway
Seal Cove, F.B	Steady Brook	Winterland
Seal Cove, W.B	Stephenville	Winterton
Seldom-Little Seldom	Stephenville Crossing	Witless Bay
Small Point-Adam's Cove-Blackhead-Broad Cove	Summerford	Woodstock
South Brook	Sunnyside (T.B)	Woody Point
South River	Terra Nova	York Harbour



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