



OFFICE OF THE INFORMATION  
AND PRIVACY COMMISSIONER  

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NEWFOUNDLAND AND LABRADOR

# Annual Report 2020-2021





OFFICE OF THE INFORMATION  
AND PRIVACY COMMISSIONER  
NEWFOUNDLAND AND LABRADOR

September 29, 2021

The Honourable Derek Bennett  
Speaker of the House of Assembly  
Newfoundland and Labrador

I am pleased to submit to you the Annual Report for the Office of the Information and Privacy Commissioner in accordance with section 9 of the *Transparency and Accountability Act*, section 105 of the *Access to Information and Protection of Privacy Act, 2015*, and section 82 of the *Personal Health Information Act*. This Report covers the period from April 1, 2020 to March 31, 2021.

As Commissioner, I am accountable for the results reported herein and for any variances from the objectives outlined in the 2020-2023 Activity Plan.

Yours truly,

Michael Harvey  
Information and Privacy Commissioner



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## COMMISSIONER'S MESSAGE

2020-2021 was a unique and challenging year for the Office of the Information and Privacy Commissioner (OIPC), just as it was for every public body in the province and, indeed, around the world. The narrative that dominated the 2019-2020 annual report was one of an office whose processes had largely achieved maturity and stability after a period of adjustment to broad new powers under its primary statute – the *Access to Information and Protection of Privacy Act, 2015 (ATIPPA, 2015)* – and a period of transition in leadership from former Commissioners Ed Ring and Donovan Molloy, Acting Commissioner Victoria Woodworth-Lynas, and ultimately to myself. But surely no sooner did we find ourselves remarking on stability than we were hit with the turbulence arising from COVID-19.

This said, we are proud to report that during this difficult year we have continued to provide coherent oversight of public bodies and custodians while promoting the access and privacy rights of Newfoundlanders and Labradorians, further to our mandates under *ATIPPA, 2015* and the *Personal Health Information Act (PHIA)*. In some respects this involved working differently, both in what we worked on and how we did our work.

This Annual Report is a departure from reports in previous years in one way. Previously, OIPC had produced two separate annual reports to meet, respectively, the requirements of the *Transparency and Accountability Act* and those of *ATIPPA, 2015* and *PHIA*. The first statute requires OIPC to report on its performance against its three year [Activity Plan](#), while section 105 of *ATIPPA, 2015* and section 82 of *PHIA* require reporting on a variety of aspects of our

operations and of public bodies and custodians subject to the Acts. In practice, there has been considerable overlap between the two reports. In my view, having two separate annual reports can be a source of confusion and potentially can undermine accountability. For this reason, this year we have decided to produce a single report that meets the requirements of all three statutes – one place for the House of Assembly, public bodies, custodians, and other members of the public to read about our activities over the past year.

This was a year in which OIPC had to use its authorities under *ATIPPA, 2015* to manage a disrupted access to information system. Under *ATIPPA, 2015*, our Office is required to approve extension applications on access requests from public bodies and in 2020-2021 we had occasion to use that authority under extraordinary circumstances to provide blanket extensions to public bodies during an uncertain period of considerable disruption. As it happens, and as discussed in our 2019-2020 Annual Report, we had just emerged from a much less significant disruption – the snowstorm of January 2020 which hit the northeast Avalon and incapacitated public bodies in the Eastern portion of the province for the best part of a week – that tested our ability to provide blanket, open-ended extensions. The pandemic, of course, was a much longer disruption. It started immediately prior to the current reporting period but public bodies were largely incapacitated for months; however under these circumstances the extent to which they were incapacitated, and the length of time it took them to be able to respond to access requests in a timely matter, varied substantially. The variance was related to their capacity on the whole, their capacity to operate remotely, and the extent to which they had to reorient their resources to the novel challenges of addressing the pandemic. Unlike in other certain jurisdictions, which broadly deprioritized their access to information systems, OIPC was able to monitor public bodies and relatively quickly move from a broad, open-ended extension that applied to all, to a more targeted approach, to the point where by July 2020 the access to information system was operating along normal timelines. Also, while the provincial government passed legislation to allow it to extend certain statutory timelines, the flexibility of *ATIPPA, 2015* in providing OIPC authority to manage extensions and deferrals meant that these changes were not required for our statutory timelines.



As discussed in greater detail below, the pandemic also generated new issues for OIPC, and public bodies and custodians across the province, to grapple with. As elsewhere in the country and the world, we grappled with the question of what information to release about the pandemic, in consideration of privacy and the public interest in public health. This was the subject of considerable media attention and commentary, numerous inquiries and a privacy breach, and complaint that led to a report.

The Office also spent some considerable time, in collaboration with counterparts across the country, considering what were initially described as “contact tracing apps” and eventually became known as “exposure notification apps”. Federal, Provincial, and Territorial Privacy Commissioners were concerned about applications developed and implemented in certain countries around the world which involved a level of surveillance that did not seem to be justified by evidence. We were further concerned about where such surveillance could lead in an uncertain future. Moreover, we felt that if an application collected too much information that Canadians would not trust it and not use it, ultimately undermining its effectiveness. Together, Federal, Provincial, and Territorial Privacy Commissioners released a joint statement of principles on exposure notification apps. These principles were ultimately successful in informing the development of the federal government’s COVID Alert application, ultimately implemented in this province and most others (excepting Alberta and British Columbia). This application does not involve the collection of personal information, leading myself and colleagues across the country to take the unusual step of actually encouraging adoption of the application.

The pandemic also changed *how* the Office did its work. During this period we transitioned from a setting in which almost none of our staff worked remotely and our processes were still, in part, paper-based. Just as with the rest of society, we had to find a way to do our work differently. Throughout 2020-2021 we acquired enough laptops so that all of our staff could work remotely. We also changed our processes so that we could complete our investigations with staff working remotely. Further, we acquired technology that enhances our ability to conduct virtual meetings with a mix of in-person and remote attendees, which will also allow us to better deliver training remotely in the future. We also planned and implemented an entirely virtual conference involving participants from inside and outside the province. Though,

by the end of the reporting period, we had begun the transition back to the office, we had learned that a hybrid working arrangement, with staff working in the office for part of the time and at home for part of the time, has certain benefits which we intend to capture on a permanent basis.

**Summary of OIPC Activities**

	2020-2021	2019-2020	2018-2019	2017-2018	2016-2017
<b>Access to Information and Protection of Privacy Act, 2015 (ATIPPA, 2015)</b>					
Access Complaints Received	124	134	112	160	315
Privacy Complaints Received	39	41	41	46	23
Special Investigation Complaints Received	0	2			
Time Extension Applications Received	479*	449**	181	173	151
Applications to Disregards Received	45	162	94	102	41
Breach Notifications Received	215	214	240	201	183
<b>Personal Health Information Act (PHIA)</b>					
Access Complaints Received	1	8	7	8	4
Privacy Complaints Received	14	17	16	9	9
Breach Notifications Received	35	20	16	17	38
<b>Advocacy and Compliance</b>					
Guidance Documents***	2	3	8	14	11
Speaking Engagements/Presentations	3	19	38	32	11
Audit	1	0	1	1	1

\*218 during COVID-19 lockdown and 261 Normal Requests.

\*\*110 during the State of Emergency; 100 during COVID-19 lockdown; and 239 Normal Requests.

\*\*\*Includes originals and revisions.

The other most important strategic initiative for OIPC this year was our involvement in the statutory review of *ATIPPA, 2015* which was still ongoing as the reporting period came to an end. This review is required by the statute to be undertaken every five years and on July 27, 2020 the Honourable Andrew Parsons, then Minister of Justice and Public Safety, announced that the review would be undertaken by a committee of one: the Honourable David B. Orsborn, former Chief Justice of the Supreme Court of Newfoundland and Labrador. OIPC welcomed this announcement as Chair Orsborn has considerable familiarity with the statute. While the review would not be as expansive as that conducted by the three-person review panel which

led to the creation of *ATIPPA, 2015*, in our view this was not required because unlike five years ago, the *Act* did not require a complete overhaul. Instead, we encouraged an approach targeted, on the one hand, on fine tuning the access to information sections of the *Act* following five years of experience, and, on the other, improvements to the privacy section of the *Act*, which had been less of a focus in 2015, aimed in particular at responding to new technological trends such as the collection of biometric information and the use of artificial intelligence (AI) by public bodies. That said, and as discussed further below, in November 2020 we made a submission to the Statutory Review Committee that was over 100 pages long and contained 56 recommendations. We made an additional written submission in March 2021 at Chair Orsborn's request and corresponded regularly with Review Committee staff. In January 2021 we presented in person to the Committee and maintained a presence throughout the rest of the hearings, including participating in roundtables on the exception related to third party business information and on workplace investigations. These hearings did not conclude during the reporting period, as originally intended, because of delays caused by the 2021 provincial general election. We have confidence that all of this work will contribute to a thorough report by the Committee and potentially amendments to *ATIPPA, 2015* in 2021-2022.

During this tumultuous and unusual year, our normal work on investigations proceeded at a particularly high volume. While in 2020-2021 our overall number of complaints were down by 10 (from 134 in the previous year to 124) and while the rate at which complaints were resolved informally was relatively stable (at about 45 percent) we ultimately produced significantly more reports. During the reporting period we produced 42 *ATIPPA, 2015* Access/Correction reports; six *ATIPPA, 2015* Privacy reports; and one *PHIA* Access report. This compares to, in the previous year, 33 *ATIPPA, 2015* Access/Correction reports; two *ATIPPA, 2015* Privacy reports; and one *PHIA* Privacy report. In total, we published 49 reports in 2020-2021 compared to 36 in 2019-2020, amounting to an increase of approximately 36 percent.

While the number of reports that we release is only one measure of our work, it is an important measure. Typically, a report is only issued if a matter cannot be resolved informally or is closed for another reason. It is not entirely clear why we had so many reports, and it may well just be, in large part, a statistical aberration. A significant part of the explanation, however, is that we

had an unusually high number of ongoing investigations that were carried over from 2019-2020 into 2020-2021. The disruption in our work happened with two weeks left in the reporting period, and numerous investigations that normally would have been concluded, whether informally or with formal reports, during 2019-2020, were carried over into the present reporting period.

In sum, 2020-2021 was a year in which, while our work was disrupted, we persevered and produced a high quantity of work at a consistently high level of quality. I know that the custodians and public bodies that we work with every day can say the same thing because we have seen it in their work throughout the year. It was our privilege to be able to play our part through this difficult year and we look forward to building upon the lessons that we have learned in the years to come.

## ABOUT THE OFFICE

### OVERVIEW

In delivering its mandate, the Office of the Information and Privacy Commissioner (OIPC) provides the following lines of business:

- Advocacy and Compliance; and
- Investigations.

OIPC oversees compliance with and protects and promotes rights and obligations established under *ATIPPA, 2015* and *PHIA*.

### Number of Employees

OIPC has a staff complement of 12 permanent positions (66.7% female, 33.3% male).

### Physical Location

OIPC is located in the Sir Brian Dunfield Building, 2 Canada Drive, St. John's, NL.

### Budget

The 2020-2021 budget for OIPC was \$1,375,600. Details of revenues and expenditures can be found on page 15 of this Report.

An annual listing of all employees who receive total compensation of more than \$100,000 a year can be found on OIPC's website at <http://www.oipc.nl.ca/compensation>. This listing is published in accordance with the *Public Sector Compensation Transparency Act*.

## MANDATE

The Information and Privacy Commissioner of Newfoundland and Labrador is an independent officer of the House of Assembly.

OIPC is responsible for oversight of the province's two access and privacy laws.

### ***Access to Information and Protection of Privacy Act, 2015***

*ATIPPA, 2015* applies to more than 400 public bodies, including government departments, agencies, boards, commissions, crown corporations, public educational bodies, regional health authorities, and municipalities.

*ATIPPA, 2015* gives people the right to access records in the custody or under the control of a public body, subject to specific and limited exceptions. The Act also gives people a right to access their own personal information held by public bodies and to request correction of their personal information. *ATIPPA, 2015* protects individuals' privacy by setting out requirements for public bodies regarding the collection, use, storage, and disclosure of personal information.

### ***Personal Health Information Act***

*PHIA* applies to thousands of custodians, including all health care authorities in the province, all health care providers, health care professionals, and other custodians of personal health information. *PHIA* applies to public and private custodians.

*PHIA* establishes rules regarding how personal health information may be collected, used and disclosed by custodians. *PHIA* protects individuals' privacy, as well as giving individuals a right to access their own personal health information and to request correction of their health information.

### **Commissioner's Powers and Duties**

Under *ATIPPA, 2015*, the Commissioner has significant powers and duties, including:

- investigating a decision, act, or failure to act of a public body that relates to an access request or a request to correct personal information;
- investigating privacy complaints and initiating privacy investigations;
- making recommendations to ensure compliance with the Act and Regulations;
- informing the public about and facilitating public understanding of *ATIPPA, 2015*;
- receiving comments from the public about the administration of *ATIPPA, 2015*;
- commenting on the information and privacy implications of proposed legislation and programs;

- commenting on the implications of record linkages and information technology on the protection of privacy;
- informing the head of a public body about a failure to fulfil the duty to assist applicants;
- making recommendations to public bodies or the minister responsible for *ATIPPA, 2015* about the administration of the Act;
- conducting audits and reporting findings of public bodies' performance of duties and obligations under *ATIPPA, 2015*;
- reviewing and commenting on Privacy Impact Assessments (PIAs), as required to be completed by government departments developing new programs and services;
- researching access and privacy developments and advancements in technology related to access and privacy;
- making special reports to the House of Assembly related to subjects within the scope of function and duties of the OIPC; and
- filing orders with the Court to compel compliance by public bodies with the Commissioner's recommendations, as provided for under *ATIPPA, 2015*.

The Commissioner's powers and duties under *PHIA* differ somewhat. The powers and duties of the Commissioner under *PHIA* include:

- reviewing a complaint regarding a custodian's refusal of a request for access to or correction of personal health information;
- reviewing a complaint regarding a custodian's contravention or potential contravention of the Act or Regulations with respect to personal health information;
- making recommendations to ensure compliance with *PHIA*;
- informing the public about *PHIA*;
- receiving comments from the public about matters concerning the confidentiality of personal health information or access to that information;
- commenting on the implications for access to or confidentiality of personal health information of proposed legislative schemes or programs or practices of custodians;
- commenting on the implications for the confidentiality of personal health information, of using or disclosing personal health information for record linkage, or using

information technology in the collection, storage, use or transfer of personal health information; and

- consulting with any person with experience or expertise in any matter related to the purposes of *PHIA*.

## LINES OF BUSINESS

In delivering its mandate, OIPC provides the following lines of business.

### Advocacy and Compliance

Under *ATIPPA, 2015*, a number of new or expanded roles were prescribed for OIPC. In order to fulfil this new and expanded mandate as efficiently and effectively as possible, it was determined that this role be made a separate and distinct line of business. This line of business incorporates the following parts of OIPC's mandate.

- 1) Education (for the general public; public bodies under *ATIPPA, 2015*; and custodians under *PHIA*)

*ATIPPA, 2015* prescribes two specific mandates in relation to education – for public bodies, as well as for the general public. *PHIA* also mandates that the Commissioner inform the public about the *Act*. New guidance material is continually under development, with priority being given to issues that appear to be the most challenging for the public as well as public bodies and custodians.

OIPC strives to ensure that members of the public are aware of their rights of access to information and protection of privacy, and how those rights are protected and supported. As appropriate, OIPC informs the public about these rights through public commentary and education and awareness presentations aimed at explaining the administration and operation of *ATIPPA, 2015*, *PHIA* and the Office. Additionally, all reports issued by the Commissioner under *ATIPPA, 2015* and *PHIA* are published on OIPC's website. OIPC also uses its Twitter account to broaden public awareness of privacy and access to information issues.

OIPC is very much engaged in education and training for public bodies. In this regard, OIPC continues to issue newsletters and to offer presentations to various audiences, including



groups of Access and Privacy Coordinators and senior leadership within public bodies. OIPC has also developed a wide variety of guidance documents to assist public bodies in interpreting *ATIPPA, 2015*. These are sent to Access and Privacy Coordinators by email, discussed in presentations, summarized in the newsletter, and posted on OIPC's website.

OIPC, in cooperation with other stakeholders, also produces a biennial Access, Privacy, Security, and Information Management Conference. Originally scheduled for April 2020 but postponed due to the pandemic, the most recent conference was presented entirely online in March, 2021.

## 2) Audit

An important feature of *ATIPPA, 2015* is OIPC's audit function, which provides the broad mandate to audit the practices and procedures of public bodies related to any aspect of how they carry out their role and functions regarding *ATIPPA, 2015*. To accomplish this, in-house expertise has been developed based largely on intensive study of experiences from other jurisdictions, in particular, British Columbia.

## 3) Privacy Impact Assessment (PIA) Review

This is another important feature of *ATIPPA, 2015*. Specific circumstances are prescribed in *ATIPPA, 2015* for when OIPC is required to review a PIA. Ministers of all departments or branches of executive government are now required to complete a PIA, or preliminary PIA indicating that a full PIA is not required, in conjunction with the development of programs or services. If the PIA involves a common or integrated program or service, the privacy assessment must be shared with OIPC for review and comment. Public bodies sometimes request that OIPC review a PIA or preliminary PIA even if not required by law, to assist in satisfying themselves that the program or service is in compliance with *ATIPPA, 2015*. Information about PIA expectations is available on OIPC's website.

## 4) Privacy Breach Reporting

Yet another role prescribed by *ATIPPA, 2015* is a requirement for public bodies to report all privacy breaches to OIPC. This requirement provides important information to OIPC about privacy compliance issues and it helps OIPC to identify emerging or repeating patterns in privacy breach incidents. OIPC is thus able to ensure timely topics for

presentations, newsletters, and new guidance documents. If a concerning pattern is noticed in such reports, direct follow-up with the public body occurs to offer assistance, targeted training, and to learn more about root causes.

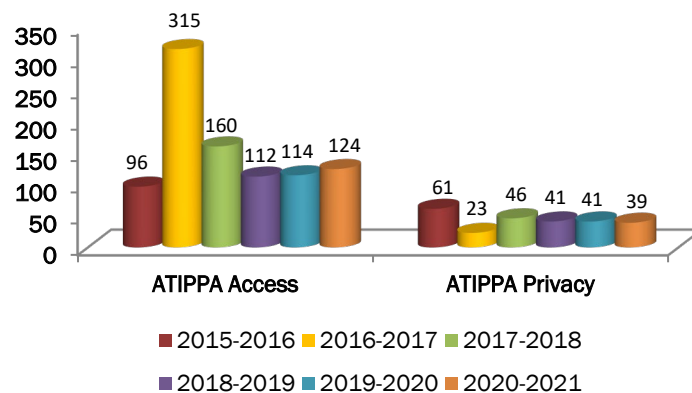
## Investigations

Under *ATIPPA, 2015*, the investigative mandate of OIPC expanded considerably. OIPC is specifically mandated to conduct the following types of investigations:

- complaints from access to information applicants relating to a decision, act or failure to act by the head of a public body in response to an access to information request;
- complaints from access to information applicants about a cost estimate for an access request or a refusal to grant a waiver of costs to be charged for access to information;
- complaints about a failure or refusal by a head of a public body to correct personal information; and
- complaints from members of the public relating to the collection, use or disclosure of personal information by a public body.

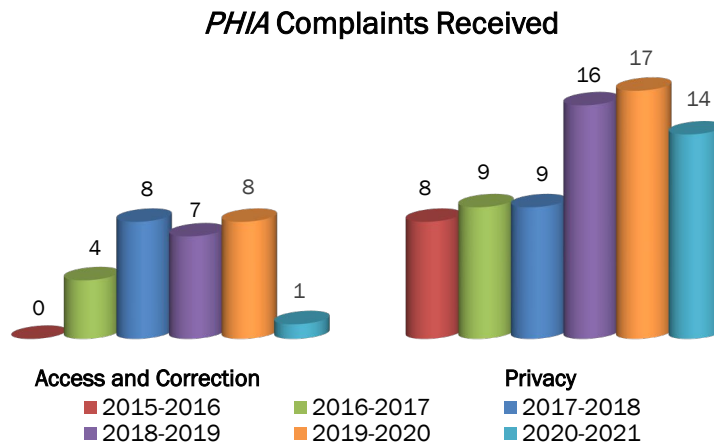
The Commissioner may also initiate, on his or her own motion, an investigation relating to the collection, use or disclosure of personal information by a public body.

### *ATIPPA, 2015* Complaints Received



Under *PHIA*, OIPC investigates complaints from individuals that a custodian has denied a request for access to personal health information or a request for correction of personal health information. OIPC also investigates complaints where an individual believes that a custodian has contravened or is about to contravene a provision of *PHIA* or the Regulations

in respect to his or her personal health information or the personal health information of another.



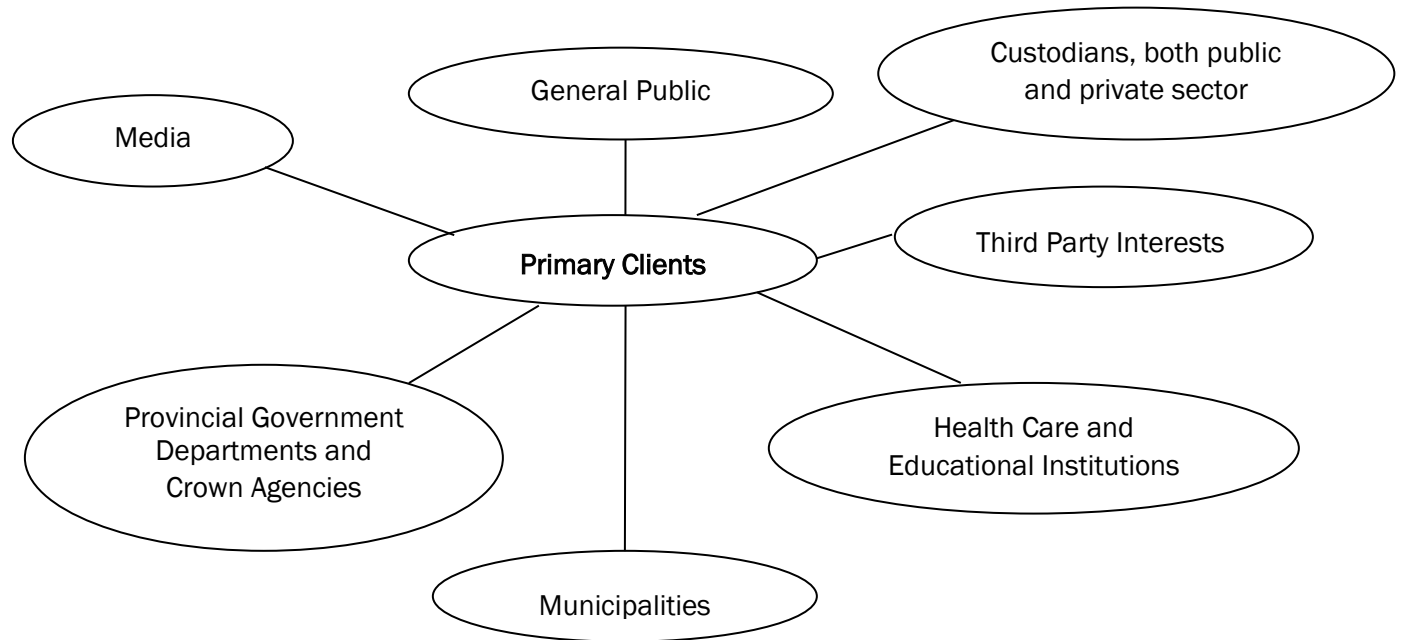
## VALUES

OIPC values its role as an independent supporter and advocate for the access to information and protection of privacy rights of the citizens of the province. Every effort is taken to ensure integrity such that we are trusted by those served, as well as by public bodies and custodians who are bound by the laws OIPC oversees. The following actions flow from these value statements and will guide OIPC moving forward.

Value	Action Statements
Independence	The conduct of investigations shall be independent of any conflict of interest or other inappropriate influences.
Integrity	Every effort will be made to provide timely, accurate, impartial, and unbiased advice and recommendations and to treat information in our trust with the proper level of confidentiality.
Judgment	Professional knowledge and judgment will be exercised in interpreting policies, practices, and procedures to ensure compliance with <i>ATIPPA, 2015</i> and <i>PHIA</i> .
Respect	The ideas and opinions of others will be listened to and considered and staff of OIPC will work collaboratively with one another to achieve results.

## PRIMARY CLIENTS

OIPC defines its primary clients as the people of the province and the entities whose activities we oversee, as well as any others who are granted rights or bear responsibilities under *ATIPPA, 2015* and *PHIA*. These clients are made up of several groups, including:

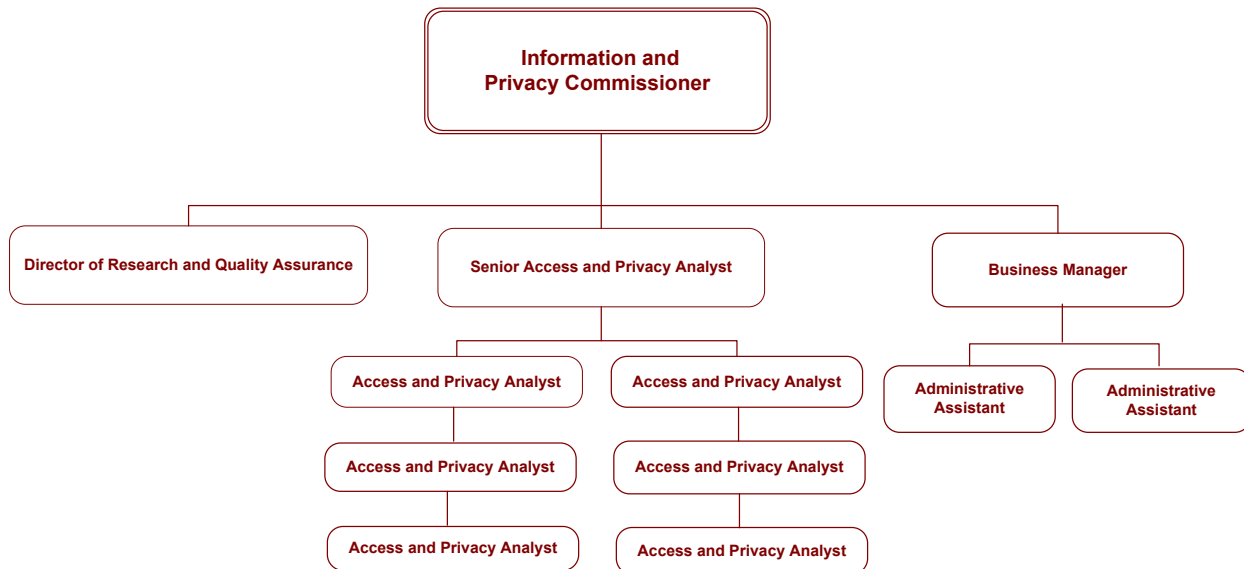


## VISION

Our vision is one where the explicit requirements as well as the values and philosophy underpinning *ATIPPA, 2015* and *PHIA* are upheld through the legislative oversight efforts of this Office, with the goal that all public bodies and custodians subject to these laws operate at the highest level of compliance reasonably possible.

## ORGANIZATIONAL STRUCTURE

The Office has a staff complement of 12 permanent positions (66.7% female, 33.3% male). Following is an organizational chart for OIPC.



## FINANCIAL STATEMENT

Expenditure and revenue figures included in this document are based on public information provided in the Report on the Program Expenditures and Revenues of the Consolidated Revenue Fund for fiscal year ending March 31, 2021 (unaudited).

	Actual \$	Estimates Amended \$	Original \$
<b>6.1.01. Office of the Information and Privacy Commissioner</b>			
01 Salaries	1,085,140	1,123,200	1,157,200
02. Employee Benefits	1,689	1,700	4,500
03. Transportation & Communications	13,927	14,300	32,800
04. Supplies	6,618	6,700	6,700
05. Professional Services	89,681	89,700	50,000
06. Purchased Services	127,473	127,900	122,400
07. Property, Furnishings & Equipment	<u>12,017</u>	<u>12,100</u>	<u>2,000</u>
	<u>1,336,545</u>	<u>1,375,600</u>	<u>1,375,600</u>
02. Revenue – Provincial	<u>(3,099)</u>		
<b>Total: Office of the Information and Privacy Commissioner</b>	<u>1,333,446</u>	<u>1,375,600</u>	<u>1,375,600</u>

**Note:** Audited financial information will be included in the Annual Report to be tabled by the Speaker during an upcoming sitting of the House. The Office of the Information and Privacy Commissioner does not have a requirement for a separate individual audited statement.

## STATISTICS

Statistical breakdown for the 2020-2021 reporting period can be found on our website, [www.oipc.nl.ca/statistics](http://www.oipc.nl.ca/statistics). Highlights are provided below.

### *ATIPPA, 2015*

Of the 164 active access complaints (124 new complaints and 40 carried forward from the previous reporting period), 61 were resolved through informal resolution and 42 were concluded with a Commissioner's report. The remaining 61 files were either resolved by other means or carried over to the 2021-2022 fiscal year.

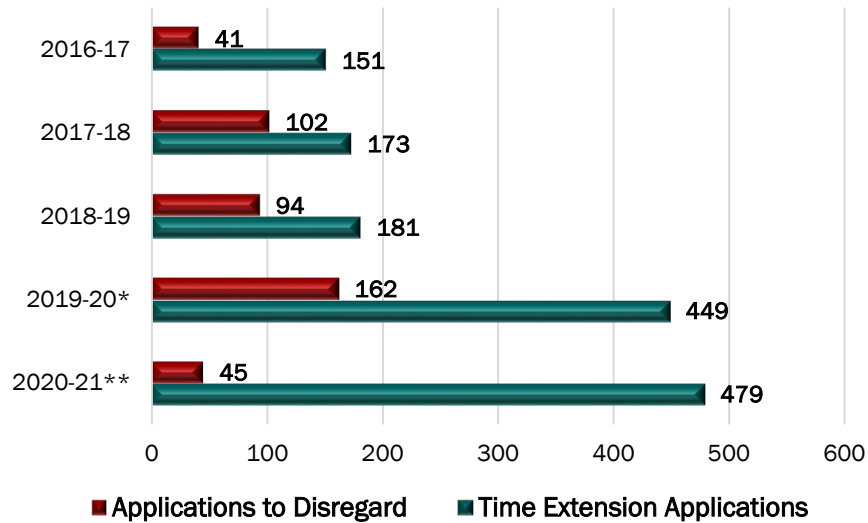
Of the 55 active privacy investigations (39 new complaints and 16 carried forward from the previous reporting period), 17 were resolved through informal resolution and six were concluded with a Commissioner's report. The remaining 32 files were either resolved by other means or carried over to the 2021-2022 fiscal year.

### **Requests for Time Extensions and Applications to Disregard a Request**

During 2020-2021, OIPC received 479 requests for time extension under *ATIPPA, 2015*. Of this total, 218 requests were processed during the public health emergency order issued under the *Public Health Protection and Promotion Act* from April 1, 2020 to July 6, 2020 and February 15, 2021 to March 26, 2021.

OIPC approved the extensions requested in 355 of the cases, partially approved 75, denied 18, and 31 were withdrawn by the public body.

OIPC received 45 applications to disregard an access to information request and of these 21 were approved, three were partially approved, 11 were denied, and 10 were withdrawn by the public body.



\*2019-20 Time Extension Applications -110 during the State of Emergency; 100 during COVID-19 lockdown; and 239 Normal Requests

\*\*2020-21 Time Extension Applications - 218 during COVID-19 lockdown and 261 Normal Requests.

### ***PHIA***

This Office received one access/correction complaint and 14 privacy complaints under *PHIA*. In addition, there were two access/correction complaints and nine privacy complaints carried over from the previous year for a total of three active access/correction complaints and 23 active privacy complaints for this reporting period.

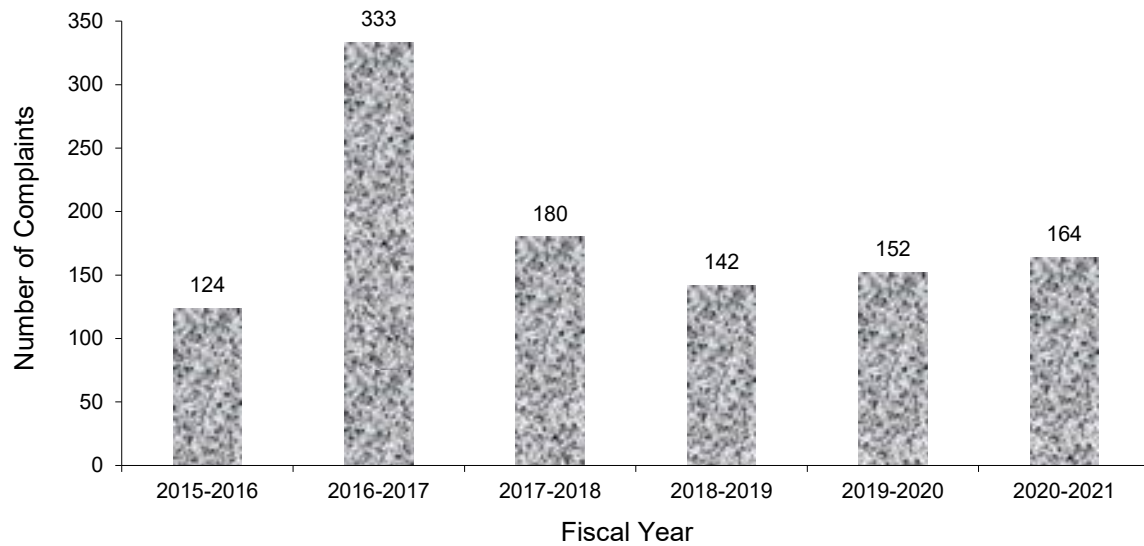
Of the three access/correction complaints, two were closed and one was carried over to the 2021-2022 fiscal year. Of the 23 active privacy complaints, six were closed and 17 were carried over to the 2021-2022 fiscal year.

### ***ATIPPA, 2015 Access***

In this past year OIPC experienced an increase in the number of active access to information complaints pursuant to *ATIPPA, 2015* compared to numbers from 2019-2020<sup>1</sup>. OIPC has a

<sup>1</sup> The high number of active cases during this fiscal year is as a result of the 40 complaints that were carried over from the previous fiscal year as a result of the Court order extending the legislative timeline to complete an investigation due to the COVID-19 lockdown.

legislated time limit of 65 business days from the date a complaint is received to resolve the matter informally or produce a Commissioner’s Report, a requirement that continues to be met. In most cases where Reports are issued, this is done prior to day 65, however complaints are typically resolved informally even sooner than that.

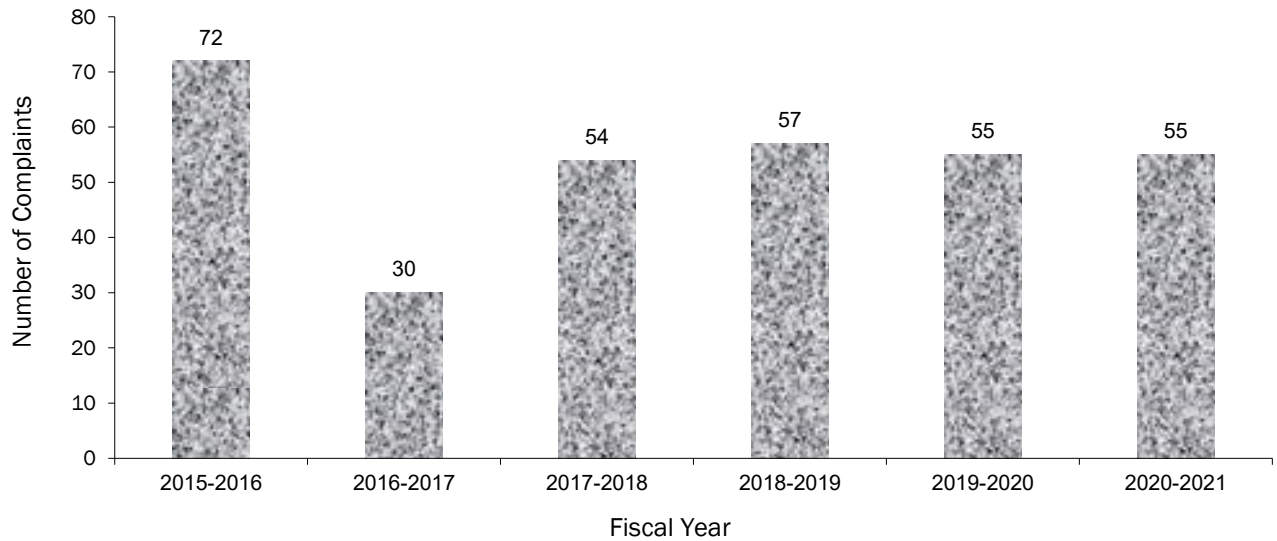


**Figure 1: Total Active ATIPPA, 2015 Access Complaints**

### ***ATIPPA, 2015 Privacy***

Privacy breach complaints continue to present a significant challenge for OIPC, and the current number of active privacy complaint files represents little movement over a four-year period. These investigations are often complex and time consuming. They can involve site visits and on rare occasions the engagement of technical experts. OIPC staff continue to build their expertise in privacy investigations in order to meet this challenge through professional development opportunities and knowledge sharing. Privacy complaints can also lead to offence prosecutions, in which case the files are held open while the matter is before the Courts, a process which can take multiple years.

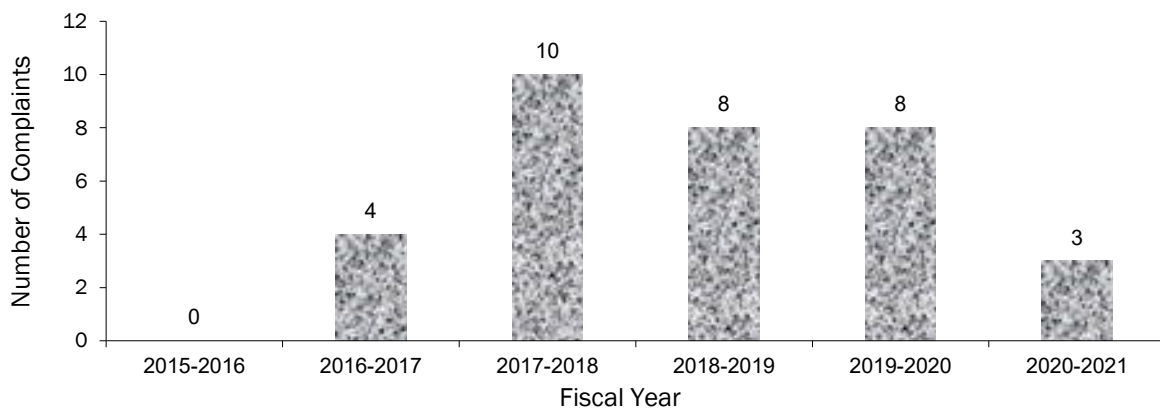




**Figure 2: Total Active *ATIPPA*, 2015 Privacy Complaints**

***PHIA* Access/Corrections**

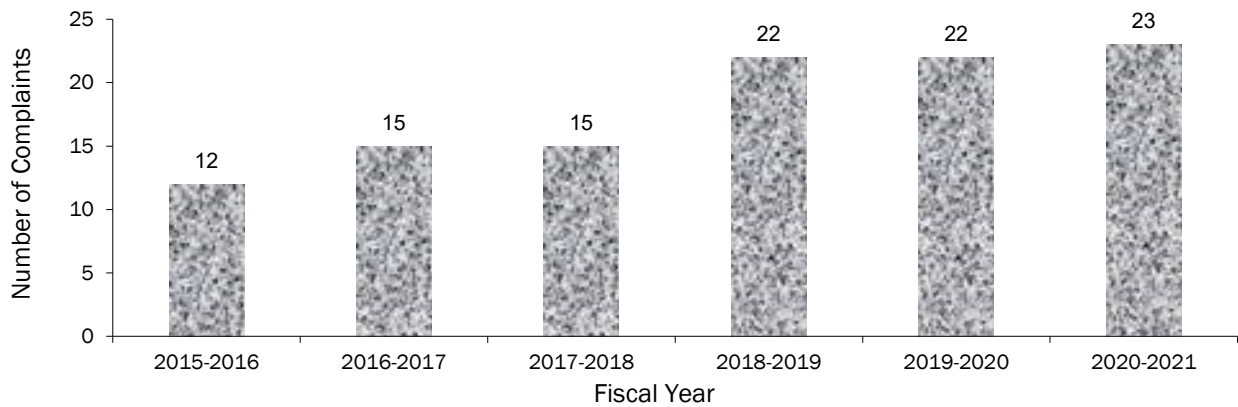
Complaints under *PHIA* related to access or corrections amount to a relatively small part of the investigative workload of OIPC. In 2020-2021 there were three active files. In addition to the complaints received this year, OIPC continues to receive a number of inquiries from custodians and members of the public about access to personal health information or correction of personal health information. The information and advice provided typically results in the correct application of *PHIA*, thereby reducing the likelihood of complaints.



**Figure 3: Total Active *PHIA* Access/Corrections Complaints**

## ***PHIA* Privacy**

As with *ATIPPA*, 2015 privacy investigations, *PHIA* privacy investigations are often very complex and technical. Many investigations require an understanding of electronic health records systems. The number of complaints received in 2020-2021 remained consistent with recent years.



**Figure 4: Total Active *PHIA* Privacy Complaints**

## HIGHLIGHTS OF THE YEAR

### STATUTORY REVIEW OF *ATIPPA, 2015*

On July 27, 2020, Minister of Justice and Public Safety, Andrew Parsons, announced the launch of the statutory review of *ATIPPA, 2015*. The review, which is required by section 117 of the Act to be undertaken every five years, was conducted throughout the latter part of the reporting period by former Chief Justice David Orsborn as Review Committee Chair. Starting in November 2020, Chair Orsborn sought written submissions from citizens, public bodies, and other stakeholders who wished to make comment on any issues they believed would be relevant for the review. Over 60 written submissions were received and posted on the review website ([www.nlatippareview.ca](http://www.nlatippareview.ca)), which also hosted live-streaming of stakeholder presentations. These submissions came primarily from public bodies that are subject to the Act, but also from individuals who may have interacted with *ATIPPA, 2015*, other statutory offices, as well as advocacy groups and even the Information Commissioner of Canada.

OIPC invested substantial time and resources into preparing a comprehensive written submission with 56 recommendations, which was submitted on November 25, 2020.

Chair Orsborn held hearings and public consultations during the last two weeks of January. OIPC, as the oversight body responsible for *ATIPPA, 2015*, opened the public hearings with a presentation on January 18, 2021. A supplementary submission in response to issues raised by other stakeholders, as well as a final presentation are also planned before the conclusion of the review process.

During the initial session and subsequent roundtable, OIPC reiterated its main recommendations to Chair Orsborn, including the need to protect the provision allowing the Commissioner to review solicitor-client records in the context of an investigation; reconsideration of the workplace investigations section and the need to create a statutory Duty to Document, as has been recommended in other inquiries and reviews.

Following consideration of all written and oral submissions by interested parties, which continued after the reporting period, Chair Orsborn is expected to make recommendations in the form of a final report to the Minister of Justice and Public Safety in June 2021.

## ACTIVITIES RELATED TO COVID-19

This reporting year occurred during the worldwide COVID-19 pandemic. OIPC found itself dealing with many challenges in carrying out its mandate during this time, while also striving to pivot to adapted forms of service delivery and modified procedures. On top of these challenges, COVID-19 presented a number of new and novel privacy issues.

The ongoing COVID-19 pandemic impacted access to information, just as it has almost every other aspect of life. The operations of many public bodies were disrupted, including their ability to respond to access requests, with offices shut down and many staff working remotely. However, many public bodies nonetheless continued to process access to information requests from the public and respond to investigations by this Office to the best of their ability. Due to the hard work and professionalism of access to information and protection of privacy coordinators, within several months Newfoundland and Labrador's access to information regime largely returned to normal, thus ensuring that the right of access was preserved, even in difficult circumstances.

OIPC also applied for and received Court approval under section 46(2) of *ATIPPA, 2015* to extend our 65 business day deadline to conclude access to information investigations and issue a Commissioner's report. At the time of the application, many OIPC staff were not yet equipped to work remotely, therefore meeting that statutory deadline was not possible. Moreover, public bodies and some complainants were, in most cases, limited in their ability to participate in the investigations. The Court Order granted an extension to OIPC of 65 business days after our Office was able to re-open. We resumed work on these files as soon as we were able to do so, with the result being that most of the files were resolved or Reports issued far in advance of the extended deadline granted by the Court.

To help public bodies cope during the early weeks and months of the pandemic, OIPC put in place a series of measures to accommodate the difficulties faced by public bodies that were shut down or had reduced access to their records or no access to computers to do their jobs. Initially, extensions of time to respond to access requests were granted using the Commissioner's "extraordinary circumstances" discretion found at section 24 of *ATIPPA*,

2015. As public bodies gradually adapted to the pandemic and offices either re-opened or were functioning remotely, OIPC slowly adapted its approach so as to find the balance between protecting the statutory right of access and recognizing the great challenges faced by public officials in carrying out their mandates. Commendably, despite all of the challenges faced by public bodies during the initial lockdown, they still managed to respond to hundreds of access to information requests on time.

During this past year we have been engaged with a broad range of public bodies and custodians about privacy issues related to COVID-19. In particular, the Newfoundland and Labrador Centre for Health Information (NLCHI) and the Department of Health and Community Services consulted with us on the implementation of the COVID Alert App, the electronic travel declaration/declaration of isolation form application, the COVID-19 Assessment and Referral PIA, and the COVID-19 Vaccine Pre-Registration Web Application PIA. These were major undertakings that had to be accomplished quickly while ensuring statutory privacy compliance. We were pleased to provide our comments and input on each of these initiatives.

We also dealt with complaints about disclosure of personal information related to the pandemic, such as the one that resulted in Report P-2020-002 (Town of Howley). The pandemic has been new territory for everyone, and we recognize that in large part, everyone is doing their best to cope and carry on as best they can.

### **COVID Alert App**

On September 3, 2020, Newfoundland and Labrador became the second Canadian province to implement the Government of Canada's COVID-19 exposure notification system. OIPC had been following the development of the COVID Alert app and other exposure notification and contact tracing efforts. Department of Health and Community Services and NLCHI officials engaged us from an early stage to discuss how such an app might work, and the inherent privacy challenges.

OIPC is satisfied that the COVID Alert app was developed in accordance with the privacy principles expressed by this Office and our Federal, Provincial, and Territorial counterparts in our May 7, 2020 joint statement. It is based on a protocol that does not involve the collection

of personal information by a public body or any third party and data is anonymized. Its development received considerable scrutiny by privacy and cybersecurity experts across Canada and around the world and there is cause for a high degree of confidence in its security and protection of personal privacy.

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In the COVID Alert app, the Governments of Canada and Newfoundland and Labrador have delivered a tool for exposure notification that operates without the mass collection of personal information.

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As the Government of Newfoundland and Labrador moves towards more e-services, COVID Alert establishes a high standard for such technological solutions.

### **Vaccine Passports**

In the latter part of this reporting period there emerged a great deal of discussion around the world about the idea of what has become known as vaccine passports. These are paper or electronic documents intended to demonstrate that the bearer has been vaccinated against COVID-19, thus allowing them to access goods or services, or to travel between jurisdictions. OIPC has been involved in discussions with our counterparts across Canada about the privacy implications of these documents, and as the reporting period came to an end, our Office was playing a leading role with our colleagues in developing a joint statement to outline the key issues and the steps that must be followed in order for privacy compliance to be achieved.

## **REPORT ON PERFORMANCE**

### **Issue 1: Oversight**

OIPC is accountable for a number of oversight activities, including requests for extensions and disregards, informal resolution of complaints, formal resolution of complaints, own motion investigations and audits.

OIPC conducts investigations under both *ATIPPA, 2015* and *PHIA*. Individuals are able to file a complaint with OIPC if they are not satisfied with the response to an access or correction request, if they have been the victim of a privacy breach or if they have concerns regarding compliance with the privacy provisions of either *Act*. Investigations are also conducted when the Commissioner is considering using the offense provision of the *Act* or launches an own motion investigation or audit into a specific matter.

When *ATIPPA, 2015* came into force on June 1, 2015, following a comprehensive review process, legislated timelines were identified for a number of activities, including OIPC investigations. The Act provides three days for the Commissioner to decide to approve or reject an application to disregard a request (section 21) or an application for an extension (section 23). Investigations involving an access or correction request must be completed within 65 business days (section 46) and privacy complaints must be completed in a time that is as expeditious as possible (section 74). To assist in meeting these timelines, OIPC developed and published guidelines for public bodies to better ensure the timelines and expectations are documented.

The second five-year statutory review of *ATIPPA, 2015* is currently underway and it is possible that any amendments will be passed and proclaimed into force during the period covered by this Activity Plan.

*PHIA* also contains timelines for investigations. The Commissioner’s review of complaints involving access or correction requests, or complaints involving allegations of breaches of the Act or Regulations, must be completed within 120 days of receipt (section 72). As *PHIA* has already been subject to its first five-year statutory review, it is possible that amendments resulting from that review could impact timelines. While the [final report](#) was presented to the Department of Health and Community Services by the Chair of the Review Committee, Dr. David Morgan, in 2017, proposed amendments have yet to be announced. It is possible that any amendments will be passed and proclaimed into force during the period covered by this Activity Plan.

If amendments are proclaimed, it is expected that there will be significant demands on the resources of OIPC to work collaboratively with the Department as well as other major stakeholders to ensure that the necessary resources are updated or developed to reflect the changes. This will include developing and updating guidance materials, manuals, online training, etc. Any such activities flowing from the legislative review will be in addition to normal legislative oversight activities, which currently place significant demands on the Office.

**Objective 1:** By March 31, 2021 the Office of the Information and Privacy Commissioner will have provided oversight activities to support compliance with *ATIPPA, 2015* and *PHIA*.

Planned for 2020-2021	Actual Performance for 2020-2021
Monitored oversight activities	OIPC has leveraged its records management system to include notifications and alerts reminding staff of deadlines and tracking statistics. This applies to all oversight activities with legislated timelines, including resolution of complaint files, as well as disregard and extension requests. To ensure accountability and transparency, many of these statistics are published in this Annual Report and on our website. Our formal investigation reports are also published on OIPC’s website. The Office has developed a spreadsheet to document presentations and dates all guidance

	<p>documents to track both the initial release date and any updated versions. Details of breaches reported to OIPC under both <i>ATIPPA, 2015</i> and <i>PHIA</i> are published in our quarterly newsletters, either <i>Above Board</i> (focused on <i>ATIPPA, 2015</i>) or <i>Safeguard</i> (focused on <i>PHIA</i>). The pandemic has raised privacy issues that are of interest across numerous jurisdictions; OIPC has participated in a number of national initiatives and joint statements as part of oversight activities this past year.</p>
<p>Identified opportunities to improve oversight activities</p>	<p>OIPC was an active participant in the five-year ATIPPA review lead by Justice Orsborn. These reviews provide OIPC an opportunity to comment on and suggest potential improvements for the legislation in general, and OIPC's oversight powers in particular. One issue identified by OIPC is the timeframe currently established in legislation for public bodies to request disregards; OIPC recommended that this be extended to provide more time for public bodies to understand the volume of responsive records and to work with applicants to narrow the scope of the request prior to making any decisions in this regard.</p> <p>Internally, OIPC experienced some changes in staffing and this emphasized the benefit of having documented processes; OIPC is working on addressing the gaps identified.</p>
<p>Implemented improvements to oversight activities</p>	<p>OIPC has identified processes that could benefit from additional documentation, such as the presentation spreadsheet and the newsletter distribution process, and are working to address these gaps. OIPC continues to work on being responsive to the sometimes unique needs of complainants and we remain sensitive to the challenges being faced by public bodies and custodians.</p>

**Discussion of Results**

Both *ATIPPA, 2015* and *PHIA* establish oversight powers for OIPC and many of these powers have associated timelines that must be achieved. OIPC applied for and obtained Court approved extensions on access complaint files at the outset of the public health emergency. Not only did OIPC require time to make the switch to virtual work, public bodies also needed time to adjust, and files cannot proceed without participation of the public bodies. OIPC processed a higher than normal number of extension requests during this time as well; all such requests were processed within the legislated timeframes. OIPC continues to examine its oversight activities and identify areas for improvement. An unintended consequence of the public health emergency has been the opportunity to focus on internal processes and



how OIPC can best serve the public, as well as public bodies and custodians, including through the resources produced by our Office.

**Objective 2:** By March 31, 2022 the Office of the Information and Privacy Commissioner will have begun work to improve oversight activities to support compliance with *ATIPPA, 2015* and *PHIA*, including prioritizing initiatives.

**Indicators for 2021-2022**

Review guidance documents to ensure they remain current.

Determine if details of our decisions on time extension requests or applications to disregard a request should be summarized and published in OIPC annual report.

Examine breach reporting forms and identify areas for improvement or education.

**Issue 2: Outreach**

Both *ATIPPA, 2015* and *PHIA* contain an explicit mandate to inform the public about each statute. It is important for residents to understand their rights under both Acts and OIPC takes its responsibilities to educate the public about *ATIPPA, 2015* and *PHIA* very seriously. Significant resources and effort have been invested by OIPC to ensure, to the extent possible, that the people of the province receive appropriate, necessary and timely information on *ATIPPA, 2015* and *PHIA*, and these efforts will be built upon during the period of this Activity Plan. While efforts to date have been solid, it is clear that these efforts need greater coordination and emphasis in order to fulfil the mandate of developing and delivering an educational program.

*ATIPPA, 2015* also gives OIPC a clear mandate to educate public bodies about the Act and to become an advocate for access and privacy. Since proclamation of *ATIPPA, 2015*, significant efforts have been made to engage with public bodies and to make every effort to try to ensure that they have the knowledge and skills necessary to comply with the law. As the second five-year statutory review of *ATIPPA, 2015* is currently underway, it is possible that amendments will be made during this three-year Activity Plan. OIPC will be ready to modify any existing resources and, if necessary, develop new resources to ensure public bodies are aware of any new or modified obligations.

*PHIA* was proclaimed into force on April 1, 2011 and has undergone its first five-year statutory review. There are thousands of custodians subject to this legislation, in both the public and private sectors. It is possible that the Department of Health and Community Services will act on recommendations stemming from the review and make amendments to *PHIA* during this three-year Activity Plan. OIPC will be ready to modify any existing resources and, if necessary, develop new resources to ensure custodians are aware of any new or modified obligations.

**Objective 1:** By March 31, 2021 the Office of the Information and Privacy Commissioner will have assessed existing resources and communication tools for both *ATIPPA, 2015* and *PHIA* and identified areas for improvement.

Planned for 2020-2021	Actual Results for 2020-2021
Reviewed existing resources and communication tools.	OIPC reviewed existing resources and communication tools, developing an inventory of available communication mediums currently in use, as well as reviewing guidance documents and presentations. During this reporting period, OIPC introduced a new communication tool – a Podcast called Duty to Discuss and developed several new slide decks – one focused on <i>PHIA</i> disclosures, and another a primer on <i>PHIA</i> and <i>ATIPPA, 2015</i> .
Reviewed resources and communication tools from other jurisdictions.	OIPC examined the websites of its counterparts in the provinces and territories, as well as federally. A list of communication tools and unique resources was developed and analyzed.
Developed plan to ensure effective communications.	A communication plan was developed with a summary of existing communication tools and material, and suggestions on potential new tools and material. OIPC intends to leverage resources from other jurisdictions to assist in developing new material for this province.

### Discussion of Results

OIPC continues to work on identifying and prioritizing resources and guidance that would benefit the public, as well as public bodies and custodians. OIPC is examining topics of interest, as well as the accessibility of communication tools. The Office continues to rely heavily on one-on-one contact between Analysts and parties involved in complaints to provide customized services that reflects their diverse needs.

OIPC's scan of resources available in other jurisdictions provided many new ideas and a number of tools that can be leveraged. It is common for oversight offices across Canada to leverage guidance produced by other offices, as, while the legislation may vary, the analysis provides a wonderful framework. While the scan revealed a number of communication tools not currently used by OIPC, these need to be analyzed to determine their applicability here. For example, while some larger offices use LinkedIn, our Office does not recruit as frequently and therefore may not obtain the same benefit.

OIPC will continue efforts to ensure accessibility of our Office and resource material.

**Objective 2:** By March 31, 2022 the Office of the Information and Privacy Commissioner will have researched communication tools and identified new options for delivery.

**Indicators for 2021-2022**

Determine what, if any, new communication tools should be adopted by the Office.

Determine if any existing communication tools should be discontinued.

Identify resources for updating or development.

**Issue 3: Modernizing the Work**

The calendar year 2020 presented challenges that continued into 2021; the City of St. John's and other municipalities across the province declared States of Emergency in January after an exceptional snowstorm. In March the Minister of Health and Community Services declared COVID-19 a public health emergency under the *Public Health Protection and Promotion Act*. Both events affected custodians and public bodies, as well as the usual operations of OIPC. As the public health emergency continues, many public bodies and custodians have adjusted to alternate service delivery solutions, including virtual.

This new reality has changed how OIPC engages with stakeholders, from public bodies and custodians to the public. It has also necessitated change in internal processes, as OIPC has tried to ensure continuity of service through remote working when needed. These events emphasize the need for OIPC to be flexible and to be able to quickly adapt to a changing operating environment. With this in mind, OIPC intends to examine its service delivery and internal processes to ensure that oversight activities and stakeholder engagement continue as required under *ATIPPA, 2015* and *PHIA*.

**Objective 1:** By March 31, 2021 the Office of the Information and Privacy Commissioner will have examined existing business processes and identified areas that could benefit from alternate delivery methods during the public health emergency.

Planned for 2020–2021	Actual Results for 2020-2021
Reviewed existing business processes and identified areas that could benefit from alternate delivery methods.	Like many entities, OIPC moved all operations to virtual several times during this reporting period. Such moves were in response to the public health emergency; fortunately, OIPC was able to work out of the physical office for much of the year. OIPC identified the need to deliver training and presentations virtually, starting with the bi-annual conference that was postponed because of the COVID-19 emergency. While OIPC always has staff on inquiries, traditionally there have been very few walk-ins or requests to mail forms. Staff made every effort to offer the same level of service to individuals, even as the delivery method changed.
Modified business processes as appropriate.	Since the beginning of the public health emergency, OIPC has made positive changes that better ensure continuity of service offerings. All staff now have laptop

	computers, allowing them to work from home or the Office with no impact on the quality of service. In addition to conference calls, OIPC is using the government's Skype service and has obtained camera and microphone capabilities for group meetings in the boardroom. When taking inquiry calls, OIPC staff have a heightened awareness that callers may not have access to computers, the internet, or printers and consistently offer to print resources and complaint forms.
Updated existing policies or develop new policies to address the modified processes.	OIPC has updated and developed a number of policies, including, but not limited to, the Working from Home Policy; the In-Person Meeting Request Procedure; and the Return to Work Protocol. As with all new and updated policies, these were circulated to all staff by email and discussed at staff meetings.

**Discussion of Results**

The public health emergency has brought the need for flexibility and creativity in service delivery to the forefront. OIPC continues to work on adapting and improving service delivery, while keeping the challenges being faced by target audiences in mind. While staff were able to access OIPC's office space for much of the reporting period, this was not necessarily the experience of many complainants, public bodies or custodians.

OIPC tries to be sensitive to the challenges public bodies and custodians are facing; however, statutory compliance remains a requirement. The longer the public health emergency lasts, the more important it becomes to develop new processes that accommodate the changing operating environment that is today's reality. OIPC is not immune to this challenge and continues to work to ensure business continuity no matter external factors.

<b>Objective 2:</b> By March 31, 2022 the Office of the Information and Privacy Commissioner will have begun work to modify business processes and identify options for remote service delivery.
<b>Indicators for 2021-2022</b>
Continue to work on virtual delivery options for training and presentations.
Review new processes and policies to ensure compliance and accuracy.
Work to ensure the Office is flexible and responsive to changing operating environment.

## ADVOCACY AND COMPLIANCE DIVISION

### AUDIT

One audit report was published this year, titled *Access to Information Timelines: Review of Delays*, Department of Fisheries and Land Resources (now Fisheries, Forestry and Agriculture). Released on October 30, 2020, the audit documented the Department's handling of access to information requests during the 2017-2018 fiscal year. During that year, the Department of Fisheries and Land Resources processed 90 access to information requests, but failed to respond within the 20 business day time frame for 32, or 36%, of those requests. It is important to note that, while this audit details the Department's performance in 2017-2018, there have been improvements in timeline compliance since it was conducted.

OIPC requested all records relating to the 32 late responses and reviewed them to understand the Department's practices and procedures when processing requests and to determine causes of the delay and areas for improvement. The review identified several issues.

- Delays in responses from staff.
- Preparation of explanations or additional information for applicants.
- Delays in transmitting records.
- Delays in seeking and obtaining consultation.
- Delays in obtaining approval; delays in reviewing records.
- Delay otherwise unexplained.

OIPC made several recommendations for the Department to improve the timeliness of its access to information responses. Many delays can be attributed to the failure of staff to search for responsive records and provide a response to the Coordinator in a timely manner. This can be improved through better staff awareness of their obligations under *ATIPPA, 2015* as well as a more proactive approach by senior leadership and the Coordinator. In several cases, further delays were caused by difficulties transferring records, or otherwise making them available, to the Coordinator. This suggests that the Department should implement a more consistent process for conveying responsive records to the Coordinator for review, and ensure that the Coordinator has access to all necessary networks and drives where records

may be stored. Consultations with legal counsel or external parties (businesses and other public bodies) also led to many of the delays. Identifying when such consultations will be necessary as early as possible in the process will avoid unnecessary delays. This will also require improvements in staff response and transmitting records to allow the Coordinator to review responsive records early on and identify parties to be consulted.

While it is admirable that the Department on several occasions made additional efforts to assist applicants and provide them with additional information, the Department must ensure that it still meets its obligations to provide records within the 20 business days set by *ATIPPA, 2015*.

Work continues on one outstanding audit. This audit was launched in 2017-2018 and involves electronic access controls. OIPC opened discussions with the RNC on this initiative in fall of 2017 and spent the next several months finalizing the scope of the audit. The complexity of the audit and the systems involved, as well as competing priorities, such as legislative timelines on other files, have slowed progress. OIPC anticipates releasing the final audit by the end of the next reporting period.

OIPC continues to follow-up on progress made on recommendations contained in the audit involving the Newfoundland and Labrador English School District's (NLESD) Use of Video Surveillance in Schools and On School Buses; only four recommendations remain outstanding. While a follow-up schedule had been established, the public health emergency impacted NLESD's operations. OIPC recognized that NLESD does not have infinite resources and sees value in those resources focusing on the move to a virtual learning environment and ensuring appropriate safeguards are in place for changes stemming from the public health emergency. OIPC received one update during this reporting period and anticipates getting back to a more regular schedule in the coming year.

## **PRIVACY IMPACT ASSESSMENT REVIEW**

Section 72 of *ATIPPA, 2015* requires a privacy impact assessment (PIA) and/or a preliminary privacy impact assessment (PPIA) to be conducted during the development of a program or service by a department or a branch of the executive government of the province. If it is a

common or integrated program or service, the privacy assessment must be shared with OIPC for review and comment.

OIPC receives many inquiries about the impact various initiatives may have on privacy. These inquiries range from calls and emails with limited details, up to the sharing of courtesy copies of draft PPIA/PIAs. We always welcome such inquiries and consultations; sometimes we are able to assist by modifying templates to reflect questions and content specific to the initiative. For example, the City of St. John's shared its PaybyPhone Parking PIA for our review.

OIPC has consulted on both provincial and national initiatives involving the COVID-19 pandemic. The Office of the Privacy Commissioner of Canada invited provincial and territorial privacy oversight offices to comment on the Government of Canada's exposure notification app. While OIPC was briefed by NLCHI on a proposed provincial exposure notification application, ultimately the province decided to use the federal application.

At the provincial level, NLCHI and the Department of Health and Community Services consulted with OIPC on the electronic travel declaration/declaration of isolation form application, the COVID-19 Assessment and Referral PIA, and the COVID-19 Vaccine Pre-Registration Web Application PIA.

Unrelated to the public health emergency, OIPC concluded its review of the PeopleSoft PIA. The PeopleSoft system is a human resource management system that contains information on all core government staff, as well as other government entities, such as payroll and leave, in addition to demographics information. After a March 2015 breach involving the mailing of T4s, the Human Resource Secretariat (HRS) proposed that, in future, T4s would be printed by employees using the self-service function of PeopleSoft. During the follow-up on this file, a PPIA for the PeopleSoft system was provided; although the PPIA recommended a PIA, no PIA could be located. Work began on the PIA in 2017 and a draft was provided to this Office in November 2019. While high level feedback was provided in December 2019, our final feedback letter was not provided until September 2020; OIPC required time to consider this complicated system's compliance with *ATIPPA, 2015*. Further complicating the review was the fact that the system was live and in use. It is a much more efficient process to conduct a PIA

up front, before the system collects, uses and discloses the personal information of thousands.

In February 2020, Eastern Health shared a PIA involving a biometric pilot project that used fingerprints to sign in and out of shifts; OIPC met with Eastern Health to follow-up on the pilot during summer 2020. It is our understanding that the pilot was discontinued and instead, plans are to replace the scheduling system with the Integrated Capacity Management System being developed by NLCHI for use in all four Regional Health Authorities (RHAs). Representatives of NLCHI and OIPC have been meeting quarterly to discuss the project and a demonstration was provided to OIPC in winter 2021. OIPC appreciates this level of engagement and looks forward to continuing this relationship.

During 2020-2021, OIPC was notified of several common or integrated programs or services, including situations where it was necessary to assist public bodies in determining whether a given program qualifies as a common or integrated program or service. We are happy to provide assistance in helping public bodies make that determination, however in all cases we make it clear that we are happy to review a draft PPIA or PIA regardless.

During the summer, the Public Procurement Agency notified OIPC about an e-Procurement Solution that would be used by a number of public bodies during the procurement process. As this initiative involved limited personal information, OIPC identified no major concerns.

Perhaps the largest and most complicated initiative reviewed by OIPC this fiscal year was the Digital by Design/MyGovNL platform initiative which provides residents of the province with a single-window access to a growing list of online services from multiple departments and agencies. This review included a number of PPIAs completed on individual components of the larger platform, along with a more detailed PIA on the initiative as a whole. OIPC's review of the PPIAs resulted in a number of considerations, including some shortcomings, such as the fact that risks were not identified. The pilot phase of the MyGovNL initiative ended in November 2019 and opened to all residents of the province; the initiative has been collecting, using, and disclosing personal information for some time. The PIA was initially presented to



OIPC in March 2020 and a copy of the PIA was provided in June 2020. OIPC has provided feedback and continues to engage with OCIO on this initiative.

## EDUCATION, OUTREACH AND TRAINING

Perhaps our most significant education, outreach, and training activity was the presentation, led by OIPC, of the Access, Privacy, Security, and Information Management Conference (APSIM). APSIM is a biennial conference that brings together members of the Newfoundland and Labrador access, privacy, information security, and information management communities to promote collaboration and build awareness of the overlap and interplay between these various disciplines. Our goal is to facilitate our ability to assist each other in managing, protecting, and securing information.

Due to the COVID-19 public health emergency, APSIM had been postponed from its original April 2020 date and was transitioned to an online event hosted by the Memorial University Signal Hill Campus in March 2021. As in previous years, there was no cost to attend.

Conference highlights include: keynote addresses from University of Ottawa Faculty of Law professor, Dr. Teresa Scassa, on the future of privacy in Canada and former British Columbia Information and Privacy Commissioner, David Loukidelis, on developments in privacy and access laws and digital economies.

David Loukidelis also joined Alberta Information and Privacy Commissioner, Jill Clayton, and Newfoundland and Labrador Information and Privacy Commissioner, Michael Harvey, for a regulators' panel discussion. Other conference highlights include presentations on cloud computing, online safety, managing shared drives, digital government, and data governance in healthcare.

We also continued with our newsletters. Four editions each of Safeguard (our *PHIA* newsletter) and Above Board (our *ATIPPA, 2015* newsletter) were issued. These were a valuable means of communicating with stakeholders, particularly about issues related to adapting statutory processes to the circumstances of the pandemic.

Beyond those projects mentioned above, OIPC has participated in a number of other activities and events designed to provide education, awareness, and insight relating to *ATIPPA, 2015* and *PHIA*. These include the following:

1. annual meeting/telephone conference with all regional health authorities;
2. staff attendance at a number of privacy and access to information conferences including the 2020 Healthcare Summit; 2021 Reboot Privacy and Security Conference; and Identity North's Winter Workshop, along with attending our own APSIM Conference;
3. consultations with the Office of the Child and Youth Advocate;
4. regular meetings with Federal/Provincial/Territorial Information and Privacy Commissioners about matters of joint interest or concern;
5. presentation to Labrador Grenfell Health on March 23, 2021 - Introduction to *ATIPPA,2015/PHIA*, PIAs, breaches, duty to assist, reasonable search;
6. meetings with the Office of the Chief Information Officer about issues of mutual relevance;
7. meetings and teleconferences related to privacy issues associated with the development of electronic health records, under the auspices of the Canada Health Infoway Privacy Forum, of which Commissioner Harvey is now Co-Chair;
8. presentation to Horwood's Home Care about *PHIA* - February 2020.
9. participated in and developed activities for Right to Know Week 2020 and Data Privacy Day 2021; and
10. Commissioner Harvey's appointment to and ongoing participation in the Expert Advisory Group on a Pan-Canadian Health Data Strategy, being supported by the Public Health Agency of Canada. This group will provide advice to the Canadian Deputy Ministers of Health.

## GUIDANCE DOCUMENTS

Our guidance documents are designed to provide public bodies, custodians, and the general public, where appropriate, with a comprehensive yet straightforward analysis of issues and topics that are of interest or concern. These tools assist coordinators and custodians as they make decisions, and hopefully avoid complaints about either the process or the outcome. The

guidance documents also aid citizens in understanding their right of access to information and the protection of their personal information.

Normally OIPC issues several guidance documents each year. In the past year, however, due to the many demands of the pandemic, staff turnover, and the substantial resources devoted to preparing for and participating in the statutory ATIPPA review, we were not able to produce new guidance documents.

In the previous reporting year we issued the guidance piece entitled “Don't Blame Privacy – What to Do and How to Communicate in an Emergency”, and this was updated in April 2020 with additional context in light of the COVID-19 pandemic.

While not technically a guidance document, we also issued a white paper entitled “Internet Voting – Privacy and Security Risks” which gathers together information and research about the privacy and security risks of internet voting from various jurisdictions in Canada and around the world, and notes that substantial privacy risks exist in any online voting system which cannot easily be resolved.

## LEGISLATIVE CONSULTATIONS

Pursuant to section 112 of *ATIPPA, 2015*, ministers are required to consult with OIPC on all proposed legislation that “could have implications for access to information or protection of privacy”. Beyond that requirement, OIPC will review any draft legislation if requested, as it can be difficult to identify potential implications for access to information or protection of privacy. When in doubt, we encourage consultation.

In this reporting year relatively few bills were received for consultation, perhaps due to the necessity of focusing government’s attention on pandemic response and adapting service delivery in a time of pandemic restrictions. The following bills were referred to us for consultation:

<i>Credit Union Act Amendment</i>
<i>Insurance Contracts Act Amendment</i>
<i>Radiation Health and Safety Act, 2020</i>
<i>Vital Statistics Act, 2009 Amendment</i>
<i>Vital Statistics Regulations</i>
<i>Tourist Accommodations Act</i>
<i>Condominium, Cooperatives and Corporations Act Amendment</i>
<i>Pension Benefits Act, 1997 Amendment</i>

Of these bills, we determined that only the following three warranted any commentary.

***Tourist Accommodations Act***

The purpose of this bill was to repeal the *Tourist Establishments Act* and replace it with a new *Tourist Accommodations Act*. The new *Act* would replace the licensing process for tourist accommodations with a registration process that will include the collection of information from operators of tourist accommodations, and the sharing of that information with other provincial and municipal regulatory agencies. The specifics of that information collection and sharing are to be determined through the development of regulations.

In our comments we pointed out that while much of the information collected as part of the registration process would be business information about the tourism operation, it could also capture personal information about a person who operates a tourism business. We also noted that some of the information to be collected by the operator could include personal information of clients, and some of that information may be incorporated into reports accessible to government inspectors.

We therefore recommended that when the regulations are being developed that the department fully consider the scope of the definition of personal information in *ATIPPA, 2015* and to bear in mind the principle of minimum use per section 66(2). We anticipate being provided with the draft regulations for review when they have been prepared.

***Condominium, Cooperatives and Corporations Act Amendment***

The purpose of this bill was to amend the *Condominium Act, 2009*, the *Cooperatives Act*, and the *Corporations Act* to allow for meetings and voting to be held by electronic means.

The concerns we communicated about this bill were specifically related to the provisions that facilitate voting by electronic means in circumstances where that vote would ordinarily be by secret ballot.

The bill specifies that the method of voting by electronic means must enable the votes to be gathered in a manner that permits subsequent verification, while also permitting the tallied votes to be presented to the corporation without it being possible for the corporation to identify how each member voted. While this is a worthy goal, our research on electronic voting indicates that it is likely not achievable and that such systems present real privacy risks.

In June 2020 this Office issued a White Paper entitled “Internet Voting – Privacy and Security Risks”. We acknowledged in our comments on the bill that not all of the issues discussed in the White Paper are applicable to this context, although many are. Our research shows that verifiability cannot be guaranteed while maintaining the secret ballot, despite the language in the bill which sets that as a condition.

We acknowledged the urgency felt by the stakeholders and government in moving forward with this bill during the pandemic in order to allow statutorily required meetings and votes to occur while following public health orders and guidelines. We cautioned, however, that emerging expert consensus appears to be that electronic voting systems conceptually cannot guarantee both the confidentiality and the verifiability of an electronic voting system, despite the language in this bill. That being said, our concerns were somewhat mitigated by the fact that unlike voting in a municipal or provincial election, this bill primarily affects private interests, and furthermore the entities affected by the bill are largely, if not entirely, not public bodies subject to *ATIPPA, 2015*.

We did, however, make a recommendation. We recommended that wherever the bill allows electronic votes, which would normally occur as a secret ballot, that such a provision be amended to indicate that it only applies in circumstances where holding a vote through the usual process is temporarily unavailable due to public health restrictions on meetings, where the restrictions would impair the ability to hold a meeting with full attendance of its voting-eligible members. Alternatively, we proposed a provision to authorize these types of decisions

in the case where a public health emergency or a municipal or provincial state of emergency has been declared. The government chose not to introduce such an amendment when the Bill was passed.

***Pension Benefits Act, 1997 Amendment***

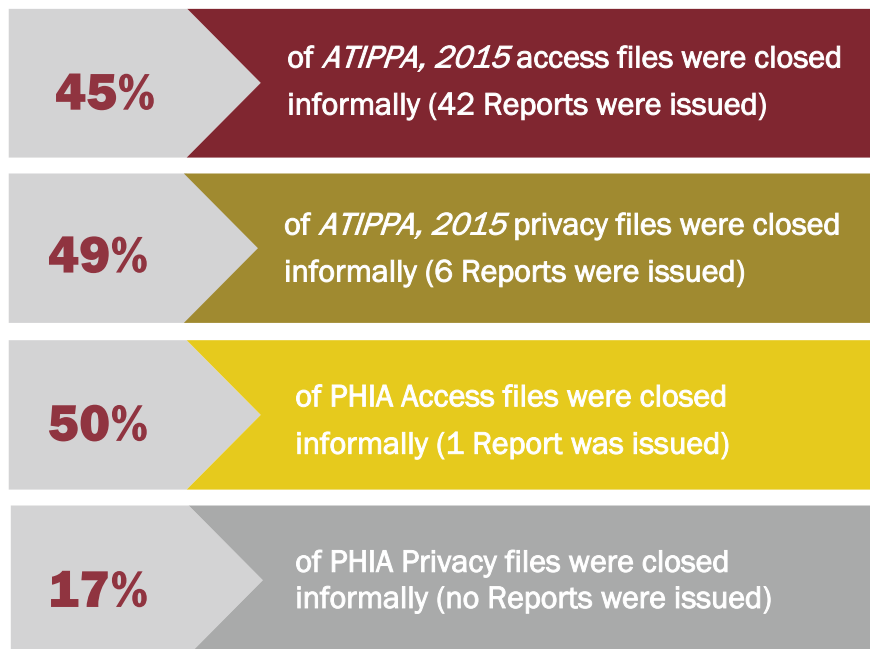
This bill establishes several circumstances under which individuals who wish to withdraw funds from a retirement savings arrangement may do so, as long as the individual provides the documentation which will be prescribed in the regulations.

In our comments, we acknowledged that it will be necessary to disclose some personal information to the relevant financial institution in order to withdraw funds, however we emphasized that when regulations are drafted that the prescribed information be the minimum amount necessary for the purpose. We also proposed that the regulations include limitations on the purposes for which the receiving financial institution can use, retain, or disclose any personal information. We received an assurance that our suggestions would be considered when the regulations are drafted, and that we would have a further opportunity to review and comment on them.

## INVESTIGATIONS DIVISION

### INFORMAL RESOLUTIONS

Investigations conducted by this Office strive to resolve complaints under *ATIPPA, 2015* and *PHIA* informally, wherever possible. This often involves public bodies providing additional records, or, where appropriate, removing redactions to some information. Where it is not possible to provide further records or release information because exceptions to access have been found to apply, public bodies have been able to provide complainants with a high-level overview of the information that has been withheld to help explain why an exception has been applied.



A common theme in access complaints before this Office has been a complainant's belief that further records ought to exist and should have been located and provided by the public body. While a public body has an obligation to conduct a reasonable search under section 13 (duty to assist), a search need not be perfect and sometimes additional records indeed do not exist. In these circumstances, public bodies which have been able to clearly describe its search efforts to the complainant, and are willing to conduct further, targeted searches for records, have been able to contribute to an informal resolution of the complaint.

Informal resolution is also an objective in privacy complaints under both Acts. Privacy complaints are more likely to be resolved informally where a public body or custodian has been willing to acknowledge the privacy breach and demonstrate to this Office and to the complainant that appropriate processes and policies are in place to avoid breach of privacy and that the public body or custodian has learned from the breach. Where the collection, use, or disclosure of personal information or personal health information is permitted by the relevant statute, a clear explanation of the necessity of the collection, use, or disclosure can help resolve a complaint informally.

## REPORTS

### **Duty to Assist – Reasonable Search**

Section 13 of *ATIPPA, 2015* imposes a duty to assist applicants on public bodies. This duty has been interpreted to include a duty to assist an applicant in the early stages of making a request, to conduct a reasonable search for the requested records, and respond to the applicant in an open, accurate and complete manner. With respect to the duty to conduct a reasonable search, OIPC received several complaints in 2020-2021 alleging that a public body had failed to do so and released several Reports commenting on a public body's search for records. These Reports provide further guidance to public bodies as to what is expected of them when searching for responsive records. The standard for a public body to meet when conducting a search for records responsive to an access to information request remains reasonableness and not perfection. In most cases, the Commissioner concluded that the public body had discharged its duty to conduct a reasonable search.

#### *A-2020-006 – Memorial University*

The Complainant, a Memorial University employee, suspected that some person had accessed sensitive personal files. The files were stored locally on a Memorial computer assigned to the Complainant and had been temporarily migrated to another drive on Memorial's network. The Complainant filed an access request for the logs of accesses to those files for a particular day. Memorial reviewed the request with its own Information Technology staff, and with the external consultant that had installed the servers, and responded to the Complainant that because file access is not logged on those servers, the requested records do not exist. The Commissioner was satisfied that file level access logging had never been enabled on the



relevant systems, and that consequently no responsive records exist. The Commissioner concluded that Memorial had fulfilled its duty under section 13 of *ATIPPA, 2015* by conducting a reasonable search for records and responding accurately and completely to the Complainant.

*A-2020-007 – Department of Tourism, Culture, Industry and Innovation*

The Department of Tourism, Culture, Industry and Innovation received an access request for all records relating to the creation of a position for the Rooms and the decision to fill it with a specific individual. The Department provided records to the Complainant, however the Complainant indicated that they have reason to believe additional responsive records exist. The Commissioner found that the Department failed in its duty to assist under section 13 of *ATIPPA, 2015* by a combination of: failing to advise the Complainant that the records likely to be of most interest would be in the custody of The Rooms; narrowly interpreting the scope of the request; and deleting a potentially responsive, non-transitory record.

*A-2020-008 – Memorial University*

The Complainant requested records from Memorial University relating to the production of certain email messages. Memorial withheld some records on the basis of section 30 (solicitor-client privilege), section 39 (business interests of a third party), and section 40 (personal privacy). The Complainant filed a complaint with this Office, alleging that Memorial had wrongly applied the exceptions to disclosure and had failed in its duty to conduct a reasonable search for records and to respond to the Complainant in an open, accurate and complete manner under section 13 of *ATIPPA, 2015*. The Commissioner found that Memorial had properly applied the section 30 exception to the records; that it was not necessary to assess the application of sections 39 and 40; and that Memorial had fulfilled its duty under section 13 of the *Act*. The Commissioner therefore recommended that Memorial continue to withhold the records.

*A-2021-004 – Town of Gander*

The Town of Gander received an access request under *ATIPPA, 2015* for records relating to the Town's Wastewater Treatment Plant. The Town responded providing 89 records to the Complainant. The Complainant made a complaint to this Office stating that they had not

received all requested records and that they believed that further records existed. Through the informal investigation process some further records were located and provided to the Complainant, but five items requested by the Complainant remained outstanding. The Town described its search and the Commissioner concluded that the Town had fulfilled its duty under section 13 (duty to assist) of *ATIPPA, 2015*.

### **Workplace Investigations**

Section 33 is a mandatory exception to access to information related to a workplace investigation. At the same time, it also provides for a mandatory disclosure of information to the parties to a workplace investigation – an individual who is a witness in a workplace investigation is entitled to receive information related to their witness statements, while the subject of a workplace investigation is entitled to receive all relevant information created or gathered for the purpose of the investigation. This is a unique provision and its mandatory disclosure provisions have, to date, been interpreted as overriding other exceptions to access. However, in *Oleynik v. Memorial University of Newfoundland and Labrador, 2021 NLSC 51*, the Supreme Court of Newfoundland and Labrador found that the mandatory disclosure provisions in section 33 did not override section 30 and the protection of solicitor-client privilege.

#### *A-2020-013 – City of Mount Pearl*

The City of Mount Pearl received an access to information request for the complaints and witness statements collected in a workplace investigation of a named individual. The City provided the complaints but refused access to the witness statements, asserting that the records were not in the custody or under the control of the City. A complaint was filed with this Office asking the Commissioner to review the refusal. In the event that the witness statements are found to be in the custody or under the control of the City, the City's position is that the relevancy of records and information gathered for the purpose of the workplace investigation cannot be determined until the investigation is complete, therefore the right of access provided under section 33 (information from a workplace investigation) of *ATIPPA, 2015* did not apply. The Commissioner determined that the witness statements are within the control of the City and that section 33(3) applies regardless of whether or not the workplace investigation is complete. The Commissioner recommended that the City obtain the witness

statements from the Investigator and disclose the relevant information to the access to information Applicant.

#### *A-2020-024 – Human Resource Secretariat*

The Human Resource Secretariat (now known as Treasury Board Secretariat) received an access request under *ATIPPA, 2015* for records relating to a workplace investigation. The Secretariat provided a package of documents including notes taken during witness interviews. The names and identifying information of the witnesses were redacted under section 37 (disclosure harmful to individual or public safety). The Complainant argued that it was necessary to obtain access to the redacted information to assess the quality and completeness of the investigation. The Commissioner found that section 37 cannot be applied to records which fall under section 33 (information from a workplace investigation), and that even if it could, the test for section 37 was not met. The Commissioner recommended release of the redacted information.

#### **Delays**

Both *ATIPPA, 2015* and *PHIA* impose deadlines for public bodies and custodians of personal health information to provide requested records to an applicant. These deadlines can be extended if circumstances merit and, in the case of *ATIPPA, 2015* deadlines, only if OIPC approves an extension in advance, pursuant to section 23. Public bodies may also seek permission from OIPC to disregard an access to information request on the basis that it is excessively broad or that responding would unreasonably interfere with the operations of the public body (among other grounds for disregarding an access request), pursuant to section 21. In 2020-2021 our Office investigated several complaints concerning the failure of a public body to adhere to the legislated timelines.

#### *A-2021-013 – City of St. John’s*

The Complainant made an access to information request to the City of St. John’s for records relating to St. John’s Sports and Entertainment and the Mile One Centre pursuant to *ATIPPA, 2015*. The City applied for, and received, several lengthy time extensions but still did not respond to the request by the mandatory deadline. After the time to respond to the request had expired the Complainant made a complaint to this Office, requesting that the

Commissioner order the release of the records and make a finding that the City had acted in bad faith. The Commissioner found that the City had failed to respond in the designated time, and the City was deemed to have refused the request. The Commissioner recommended the release of the records within 50 business days of the release of this Report, and declined to make a finding that the City had acted in bad faith.

### **Section 30**

Section 30 allows a public body to withhold from disclosure solicitor-client privileged information. The maintenance of the confidentiality of solicitor-client privilege is considered essential for the proper functioning of the legal system in Canada and is considered to be a fundamental civil and legal right.

An ongoing issue with relation to solicitor-client privileged information withheld under section 30 is this Office's role in reviewing records over which the exception has been claimed. *ATIPPA, 2015* provides OIPC with the authority to review information over which solicitor-client privilege has been claimed in order to discharge its duties as an independent review body and to protect the rights of applicants by ensuring that public bodies are properly applying this exception to access. However, this Office continues to receive opposition from some public bodies when asked to produce records for our review. Without records to review, OIPC may be forced to conclude that a public body has failed to meet its burden of proving that the exception has been properly applied and to recommend that the records be disclosed to the applicant. However, a sufficient description of the records detailing their contents and the parties to any communication may, in certain circumstances, be sufficient to discharge a public body's burden of proof.

#### *A-2021-007 – Department of Fisheries, Forestry and Agriculture*

The Complainant filed an access to information request to the Department of Fisheries, Forestry and Agriculture for records relating to his property and, in particular, a historical land issue involving a neighbouring property and Crown Lands. The Department provided access to some of the records but withheld others under section 30 (Legal advice). The complainant asked this Office to review and ensure the records were properly withheld. During the investigation, the Complainant also described records which he indicates would not have

fallen under section 30, but were also not provided. The Complainant questioned whether these records may have been improperly withheld. The Department refused to provide this Office with the records subject to section 30, or descriptions of them. As such, the Department failed to discharge the burden of proof and the Commissioner recommended the release of all records.

#### *A-2020-028 – Department of Transportation and Infrastructure*

The Department of Transportation and Infrastructure received a request for information relating to two conveyances between a company and a municipality. The Department provided access to some records but withheld other records on the basis of section 30 (Legal advice). During the complaint investigation the Commissioner requested copies of the responsive records for review, but the Department refused to provide records that it claimed were subject to the section 30 exception. The Department also refused to provide a sufficient description of those records. The Commissioner concluded that in the absence of evidence to support the claim of legal advice, the Department had not met the statutory burden of proving that the exception applied, and therefore recommended that the records be disclosed.

#### *Report A-2020 – Town of St. George’s*

The Complainant made an access request to the Town of St. George’s for a legal opinion. The Town refused to disclose it on the basis of section 30 (solicitor-client privilege). The Complainant filed a complaint with this Office, alleging that the privilege had been waived. The Commissioner found that the privilege had not been waived and recommended that the Town continue to withhold the record.

### **Section 39**

Section 39 requires public bodies to withhold from disclosure the business information of third parties. Where a public body intends to release information about a third party to which the third party believes section 39 applies, that third party has a right to complain to this Office. In such a complaint, the third party bears the burden of demonstrating that the information at issue meets the three-part test under section 39 and that the information qualifies for the exception. In 2020-2021, as in past years, OIPC continued to field several complaints from third parties and released several reports on the topic.

### *Report A-2020-009 – Department of Finance*

In October 2016 the Applicant requested from the Department of Finance correspondence between the Department and a Third Party, Atlantic Lottery Corporation, relating to video lottery terminals. The Department gave notice to the Corporation that it intended to disclose some of the information. The Corporation complained to this Office, arguing that some of the information should be withheld based on sections 29 (policy advice or recommendations), 34 (disclosure harmful to intergovernmental relations or negotiations), 39 (disclosure harmful to business interests of a third party), and 40 (disclosure harmful to personal privacy) of *ATIPPA, 2015*. The Commissioner, in Report A-2017-004, found that the Corporation was not entitled to rely on sections 29 or 34, and had not met the test for sections 39 or 40, and recommended that the information be disclosed. The Department accepted the recommendation. The Corporation appealed the Department's decision to the Supreme Court, which, in June 2018, upheld the decision and dismissed the appeal.

However, another Third Party, the Beverage Industry Association of Newfoundland and Labrador appealed to the Supreme Court, arguing that it had not been given notice of the original decision by the Department and had therefore had no opportunity to make submissions. In December 2019 the Court set aside the Department's decision and remitted the matter to the Commissioner for reconsideration after receiving submissions from the Association. On reconsideration, the Commissioner found that the Corporation was not entitled to rely on sections 29 or 34, and that neither the Corporation nor the Association had met the tests for sections 39 or 40. The Commissioner therefore recommended that the information be disclosed.

### *A-2020-029 – Department of Health and Community Services*

The Department of Health and Community Services received an access to information request which sought contracts and other documents related to the 811 HealthLine service. The Department released most records to the Applicant, advising that approximately a third of the records were withheld per sections 27 (cabinet confidences), 29 (policy advice), 30 (legal advice), 31 (harmful disclosure to law enforcement), 35 (disclosure harmful to the financial interests of a public body), 39 (disclosure harmful to the financial interests of a third party),

and 40 (disclosure harmful to personal privacy) of *ATIPPA, 2015*. The Department gave notice subject to section 19(1) to the Third Party that it intended to disclose information that might contain information that might be exempted under section 39. Despite consultations with the Department, the issue could not be resolved. The Third Party filed a complaint with this Office, advising that it objected to the release of a table that would release the “Costs per Call.” The Third Party argued that the records were supplied in confidence to the Department. The Commissioner determined the Third Party did not meet the three-part test under section 39 and recommended the release of the records.

### **Section 9 Public Interest**

Section 9 provides that where public bodies have applied any of the discretionary exceptions enumerated at section 9(2), it must nonetheless consider whether the public interest in the information outweighs the reason for the exception. Section 9(3) further requires public bodies to make proactive disclosure of information to the public about a risk of significant harm to the environment or to health or safety of the public when the disclosure of this information is in the public interest. In Report A-2020-005, our Office conducted an own-motion investigation into the application of section 9(3), while in Report A-2020-026 we considered the public interest in disclosing information about a teacher’s credentials.

#### *A-2020-005 – Department of Fisheries and Land Resources*

In the late summer and early fall of 2019, a significant salmon mass mortality event occurred at several fish farm locations on the south coast of Newfoundland. This event attracted considerable media attention as well as questions about the potential impact of this event, as well as subsequent clean-up operations, on the local environment and/or the health of people in the area. On October 30, 2019, this Office commenced an own motion investigation into whether section 9(3) (Public Interest) of *ATIPPA, 2015* applied and whether the Department of Fisheries and Land Resources was obligated to make public disclosure of information about this mass mortality event. The Commissioner’s investigation concluded that the Department did not have information in its possession about a risk of significant harm to the environment or to the health or safety of the public which it would have been obliged to disclose.

## *A-2020-026 – Newfoundland and Labrador English School District*

The Newfoundland and Labrador English School District received an access request under *ATIPPA, 2015* for the results of a particular teacher's American Sign Language proficiency test. The School District refused to provide the requested record on the basis of sections 32 and 40(1). The Complainant argued that they required the document in order to assess the quality of education being provided by the teacher. The Commissioner found that the School District was correct in its application of sections 32 and 40. The Commissioner also considered whether sections 9 or 40(5) would require disclosure despite sections 32 and 40(1), but found that neither could be used to override the exceptions. The Commissioner recommended the record continue to be withheld.

## **COURT MATTERS**

### **Offence Prosecution**

On January 18, 2019 two civilian employees of the Royal Newfoundland Constabulary (RNC) were charged with offences contrary to section 115 of *ATIPPA, 2015*. The charges related to inappropriately accessing personal information without lawful authority while in the employ of the RNC.

One employee pled guilty and received an absolute discharge. The case involving the other employee went to trial on February 19, 2020, and that individual was found not guilty of the charge. The Crown has filed an appeal that will be heard on October 28, 2021.

On April 9, 2020 an information was laid charging an employee of Central Health with an offence under section 88 of *PHIA* for allegedly unlawfully accessing the personal health information of another person. No date has yet been set for the matter to be heard.

### ***Ongoing Court Matters***

*Department of Fisheries, Forestry and Agriculture application for a declaration, Court File No. 2021 01G 0966*

This is an application seeking a declaration by the Court pursuant to section 50 of *ATIPPA, 2015* that the Department does not have to comply with the recommendations



in Report A-2021-007. The complaint, which resulted in that Report, involved a request by an access to information applicant which was refused by the Department on the basis of a claim of solicitor-client privilege. During the course of OIPC's investigation, the Department refused to provide a copy of the unredacted records to the Commissioner for review, and did not provide any other evidence to discharge its burden of proof. The Commissioner therefore recommended disclosure of the responsive records. No Court date has yet been set.

*Department of Indigenous Affairs and Reconciliation application for a declaration, Court File No. 2020 01G 4584*

This is an application seeking a declaration by the Court pursuant to section 50 of *ATIPPA, 2015* that the Department does not have to comply with the recommendations in Report A-2020-020. The matter is expected to be set down for a hearing in the coming reporting period.

*Fonemed North America Inc. v. Department of Health and Community Services, Court File No. 2021 01G 0388*

This is an appeal by Fonemed North America Inc. (Third Party) of a decision of the Department of Health and Community Services to follow our recommendation in Report A-2020-029 that records be disclosed to the access to information applicant. OIPC is an intervenor in the matter. A hearing date has not yet been set.

*Department of Transportation and Infrastructure application for a declaration, Court File No. 2018 04G 0170*

This is an application seeking a declaration by the Court pursuant to section 50 of *ATIPPA, 2015* that the Department does not have to comply with the recommendations in Report A-2020-028. The complaint, which resulted in that Report, involved a request by an access to information applicant which was refused by the Department on the basis of a claim of solicitor-client privilege. During the course of OIPC's investigation, the Department refused to provide a copy of the unredacted records to the Commissioner for review, and did not provide any other evidence to discharge its burden of proof. The Commissioner therefore recommended disclosure of the responsive records. No Court date has yet been set.

*Bell Canada v. City of Mount Pearl*, Court File No. 2020 01G 4899

This is an appeal by Bell Canada (Third Party) of a decision of the City of Mount Pearl to follow our recommendation in Report A-2020-018 that records be disclosed to the access to information applicant. OIPC is an intervenor in the matter. A hearing date has been set for September 20, 2021.

*Kirby v. Chaulk*, Court File No. 2019 01G 1380

This is an appeal by the Applicant of the decision by Bruce Chaulk, Commissioner for Legislative Standards, to follow the recommendations of the Commissioner in Report A-2019-004 to continue to withhold information from the Applicant under section 41(c) and that this was not a workplace investigation, as defined in section 33. OIPC is an intervenor in the matter, which was heard on July 7, 2020. The Court's decision was pending at the conclusion of this reporting period.

*Beverage Industry Association v. Her Majesty in Right of Newfoundland and Labrador as represented by the Minister of Finance*, Court File No. 2018 01G 6000

This began as an originating application for an injunction pursuant to Rule 22 and/or section 105 of the *Judicature Act*. It relates to an otherwise concluded Court matter (*Atlantic Lottery Corporation v. Her Majesty The Queen (Minister of Finance)*, Court File No. 2017 01G 2004). The Beverage Industry Association (BIA) was not notified as a Third Party in that case and sought standing to oppose the release of records as ordered by the Court in that matter.

A decision on the BIA's application was rendered on December 11, 2019, in which the Court ordered that the matter be remitted back to the Commissioner to allow the BIA to make representations and for the Commissioner to prepare a new Report. The decision also contained other rulings and interpretations impacting matters such as the role of OIPC in notification of third parties, the availability of judicial review, and the interpretation of section 39 which cause concern for the Commissioner, and as a result the Commissioner has filed an appeal of this ruling. No date has yet been set for the hearing.

*Oleynik v. Memorial University, Various Court Files*

The Applicant and Memorial University currently have a number of matters before the Court relating to decisions by Memorial in response to his access to information requests. The Applicant, Memorial University, and OIPC were participating in a Court-mandated case management process at the conclusion of this reporting period.

*Department of Justice and Public Safety application for a declaration, Court File No. 2018 04G 0170*

This is an application seeking a declaration by the Court pursuant to section 50 of *ATIPPA, 2015* that the Department does not have to comply with the recommendations in Report A-2019-019. The complaint, which resulted in that Report, involved a request by an access to information applicant which was refused by the Department on the basis of a claim of solicitor-client privilege. During the course of OIPC's investigation, the Department refused to provide a copy of the unredacted records to the Commissioner for review, and did not provide any other evidence to discharge its burden of proof. The Commissioner therefore recommended disclosure of the responsive records. No Court date has yet been set.

*Bell Canada v. David Heffernan, in his capacity as Chief Information Officer; Court file 2019 01G 6549*

This is an appeal by Bell Canada (Third Party) of a decision of the Office of the Chief Information Officer to follow our recommendation in Report A-2019-026 that records be disclosed to the access to information applicant. Our Notice of Intervention was filed October 25, 2019. No Court date has yet been set.

*College of the North Atlantic Application for a Declaration; Court file 2020 01G 0627*

This is an application seeking a declaration by the Court pursuant to section 50 of *ATIPPA, 2015* that the College does not have to comply with the recommendations in Report A-2020-001. Our Notice of Intervention was filed October 25, 2019. The matter is set to be heard in 2021.

## Concluded Matters

*McBreairty v. College of the North Atlantic*, Court File No. 2016 01H 0095

This matter was initiated by the Applicant in response to a decision by the College of the North Atlantic (CNA) to deny access to the name of an individual found in a record which was responsive to the Applicant's request. The Applicant brought the matter to the Commissioner, resulting in Report A-2012-011 in which the Commissioner recommended disclosure. CNA refused to follow the recommendation and the Applicant appealed to the Supreme Court.

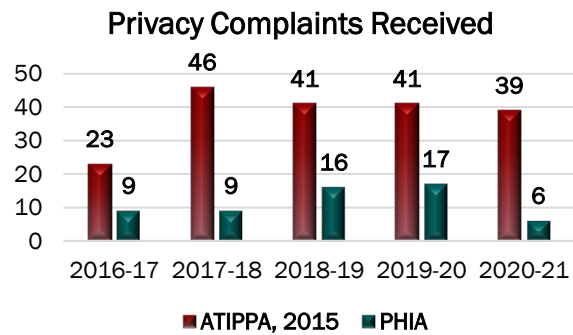
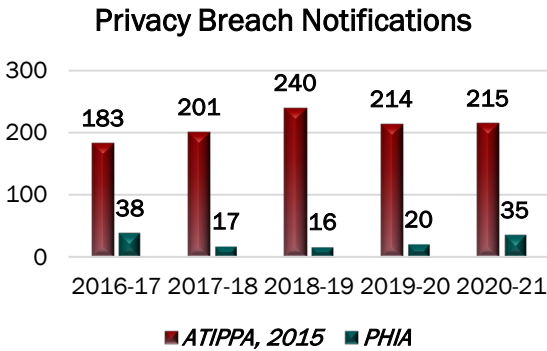
The Court found that the individual in question was in fact an employee of the College and that the person's name should be disclosed to the Applicant (2016 CanLII 51110). That decision was appealed by CNA. The Court of Appeal heard the matter on June 13, 2018 and issued a decision dismissing the appeal on June 3, 2020.

## BREACH REPORTING

Both *ATIPPA, 2015* and *PHIA* require public bodies and custodians to take steps to maintain the security of personal information and personal health information in their custody or control. Where personal information or personal health information have been improperly accessed, disclosed, stolen, lost, or disposed of, a public body or custodian are required to notify this Office of the breach.

In 2020-2021, public bodies reported 215 breaches of personal information to this Office pursuant to section 64 of *ATIPPA, 2015*. During this same period, custodians reported 35 breaches of personal health information pursuant to section 15 of *PHIA*.

Of the 215 breaches reported under *ATIPPA, 2015*, the majority (144) were related to personal information being sent to the wrong person through email. While rare, intentional privacy breaches – where an individual (often an employee of the public body) has willfully collected, used, or disclosed personal information without authorization – are of particular concern to OIPC. Over the past year, public bodies reported five such intentional breaches.



The breach reporting provisions of *ATIPPA, 2015* and *PHIA* provide OIPC with an opportunity to engage with public bodies and custodians to provide guidance on containing and mitigating privacy breaches. In addition to reporting privacy breaches to OIPC, both *ATIPPA, 2015* and *PHIA* also provide for public bodies and custodians to notify those individuals affected by a privacy breach.

OIPC may respond to a privacy breach with an own motion investigation. Aggregate data regarding breaches reported by public bodies under *ATIPPA, 2015* are published in our quarterly newsletter, *Above Board*.

### TIP OF THE HAT

While this reporting period saw many changes and challenges for all public bodies and custodians, those involved in the health sector perhaps experienced more than the rest. NLCHI and the Department of Health and Community Services quickly developed electronic systems, like the online vaccination registration system, while keeping privacy top-of-mind through PIAs. The RHAs and individual custodians modified countless processes, providing what services they could while complying with new public health requirements and still respecting patient privacy; this sometimes involved virtual care.

Memorial University’s Access and Privacy Advisor, Rosemary Thorne, deserves a “tip of the hat” acknowledgement for her dedication to access and privacy. Supported by her staunch colleagues within the Information Access and Privacy (IAP) Office: Kaitlin Butler, Cheryl Joy, and Maggie Noseworthy, Ms. Thorne is diligent and thorough in dealing with access requests, privacy complaints, and complaints to OIPC.

Over the past year, Ms. Thorne has maintained a steadfast commitment to ensuring access to information has not been detrimentally impeded by the COVID-19 pandemic. Leading her team, she ensures Memorial University adheres to the spirit of *ATIPPA, 2015* through transparency and accountability. Along with managing the IAP Office's day to day operations, Ms. Thorne was instrumental in making significant submissions on behalf of Memorial University before the ATIPPA Statutory Review Committee 2020. Ms. Thorne also used this opportunity to engage in public outreach and education about *ATIPPA, 2015* and its provisions. Ms. Thorne is a consummate professional in the area of access and privacy.

OIPC took many inquiries from officials asking about privacy considerations when making such modifications and the implications of remote work; it was obvious that privacy was an important part of this change. Even with all these changes, regular work, including providing access to information and access to personal health information, continued. To all those involved in the response to the public health emergency, to all those who worked longer hours to ensure privacy and access legislation remained top-of-mind, to all those who worked to keep residents and their personal information safe – we recognize your efforts and thank you.

## **CONCLUSION**

2020-2021 was a tumultuous and busy year for OIPC but we are proud of the work that we have accomplished and the contribution that we have made. We look forward to the opportunities and challenges that we will face in 2021-2022.

The coming year provides us with an opportunity to continue to improve our business processes by completing the process of making them fully electronic. This will require significant internal policy development and change management. We are optimistic that this work will lead us to be a more efficient and adaptable organization, better able to provide excellent service to our clients.

We also look forward to the opportunity to leverage the change that we have made to our ability to connect remotely with public bodies, custodians, members of the public, and other

stakeholders. We plan to resume our training and find ways to expand its reach in the coming year.

The year will not be without its challenges. The COVID-19 pandemic is still with us, and the threat of disruption remains as variants of concern emerge and spread. The pandemic will also present us with new privacy conundrums: as the year comes to a close, talk of “vaccine passports” is already beginning and will surely be a focus of considerable privacy concern. Other privacy related matters related to the pandemic will no doubt arise as the year unfolds.

We also look forward, in 2021-2022, to the opportunity that the provincial government has to advance amendments to *PHIA*. The government, and particularly the Department of Health and Community Services, has been understandably occupied in the past year with the pandemic response; however, as the province starts to find a level of stability in the coming year, the opportunity to advance these amendments remains before it. A considerable amount of work has been done following the Statutory Review of *PHIA*, which commenced in 2016, and OIPC is ready to engage on any outstanding matters from that review so that amendments can be advanced in the coming year.

Finally, we very much look forward, during the coming year, to the conclusion of Chair Orsborn’s work on the *ATIPPA* Statutory Review. Additional hearings will take place early in the year, having been delayed by the provincial election, and OIPC will participate in them as well as developing a final written submission responding to those made by other stakeholders. We look forward to Chair Orsborn’s Report and ultimately the provincial government’s response to it. This review of *ATIPPA, 2015* provides an opportunity to improve what is already the best provincial access to information statute in the country by fine-tuning the access to information part and modernizing the privacy part to be suitable for the contemporary environment and technological developments to come. We call on the provincial government to seize this opportunity and we are enthusiastic about our ability to be a part of it.





## Appendix A

Timelines (business days) for Access Complaints for the  
2020-2021 Reporting Period under the  
*Access to Information and Protection of Privacy Act, 2015*



Public Body	Means of Resolution	Review Started	Days for Informal Review	Formal Review Stared	Days for Formal Review	Date Complaint Resolved	Total Days
Department of Transportation and Works	Informal Resolution	2020-07-14	7			2020-07-23	7
Royal Newfoundland Constabulary	Informal Resolution	2020-07-30	9			2020-08-13	9
Nalcor Energy	Informal Resolution	2021-02-05	12			2021-02-23	12
Memorial University	Informal Resolution	2020-12-17	17			2021-01-13	17
Department of Justice and Public Safety	Informal Resolution	2020-02-20	18			2020-04-17	18
Human Resource Secretariat	Informal Resolution	2020-03-19	19			2020-07-10	19
Department of Finance	Informal Resolution	2020-06-29	20			2020-07-28	20
Department of Justice and Public Safety	Informal Resolution	2020-10-20	20			2020-11-18	20
Nalcor Energy	Informal Resolution	2021-02-05	22			2021-03-09	22
Office of the Premier	Informal Resolution	2020-12-15	23			2021-01-19	23
Nalcor Energy	Informal Resolution	2021-02-05	23			2021-03-10	23
Department of Finance	Informal Resolution	2020-10-16	25			2020-11-23	25
Royal Newfoundland Constabulary	Informal Resolution	2020-06-24	25			2020-07-30	25
Memorial University	Informal Resolution	2020-12-30	26			2021-02-05	26
Department of Health and Community Services	Informal Resolution	2020-07-30	27			2020-09-09	27
Department of Transportation and Works	Informal Resolution	2020-07-06	27			2020-08-13	27
Nalcor Energy	Informal Resolution	2021-02-04	27			2021-03-15	27
Nalcor Energy	Informal Resolution	2021-02-05	27			2021-03-16	27
Nalcor Energy	Informal Resolution	2021-02-04	28			2021-03-16	28
Conseil Scolaire Francophone Provincial de Terre-Neuve-et-Labrador	Informal Resolution	2020-11-13	29			2020-12-24	29
Conseil Scolaire Francophone Provincial de Terre-Neuve-et-Labrador	Informal Resolution	2020-11-13	29			2020-12-24	29
Conseil Scolaire Francophone Provincial de Terre-Neuve-et-Labrador	Informal Resolution	2020-11-13	29			2020-12-24	29
Department of Finance	Informal Resolution	2020-07-14	30			2020-08-26	30
City of Mount Pearl	Informal Resolution	2020-03-03	31			2020-07-14	31
City of St. John's	Informal Resolution	2020-01-31	32			2020-06-02	32
Municipal Assessment Agency	Informal Resolution	2020-08-31	34			2020-10-20	34
Town of Stephenville	Informal Resolution	2020-08-28	38			2020-10-23	38
Department of Children, Seniors and Social Development	Informal Resolution	2020-09-21	41			2020-11-19	41
Labrador Affairs Secretariat	Informal Resolution	2020-12-04	41			2021-02-03	41
Royal Newfoundland Constabulary	Informal Resolution	2020-07-23	41			2020-09-22	41
Town of Massey Drive	Informal Resolution	2020-01-16	42			2020-06-19	42
Workplace NL	Informal Resolution	2020-09-09	43			2020-11-10	43
Department of Municipal Affairs and Environment	Informal Resolution	2020-06-29	44			2020-09-01	44
Memorial University	Informal Resolution	2020-11-06	44			2021-01-12	44
House of Assembly	Informal Resolution	2020-06-12	44			2020-08-18	44
Eastern Health	Informal Resolution	2020-11-18	46			2021-01-25	46

Public Body	Means of Resolution	Review Started	Days for Informal Review	Formal Review Stared	Days for Formal Review	Date Complaint Resolved	Total Days
Department of Fisheries and Land Resources	Informal Resolution	2020-05-05	47			2020-08-21	47
Town of Happy Valley-Goose Bay	Informal Resolution	2020-12-21	47			2021-02-26	47
Nalcor Energy	Informal Resolution	2020-02-07	48			2020-07-14	48
Memorial University	Informal Resolution	2020-08-26	49			2020-11-05	49
Department of Justice and Public Safety	Informal Resolution	2020-05-06	50			2020-08-26	50
Department of Service NL	Informal Resolution	2020-05-15	50			2020-08-26	50
Department of Municipal Affairs and Environment	Informal Resolution	2020-06-12	50			2020-08-26	50
Municipal Assessment Agency	Informal Resolution	2020-06-12	52			2020-08-28	52
Town of Wabana	Informal Resolution	2020-04-21	54			2020-09-01	54
City of Mount Pearl	Informal Resolution	2020-06-12	54			2020-09-01	54
Royal Newfoundland Constabulary	Informal Resolution	2020-03-06	57			2020-08-25	57
Department of Justice and Public Safety	Informal Resolution	2020-12-04	58			2021-02-26	58
Department of Service NL	Informal Resolution	2020-03-05	59			2020-08-26	59
Labour Relations Board	Informal Resolution	2020-11-02	60			2021-01-28	60
Town of Grand Falls-Windsor	Informal Resolution	2020-02-10	60			2020-07-31	60
Office of the Premier	Informal Resolution	2020-11-05	61			2021-02-03	61
Department of Immigration, Skills and Labour	Informal Resolution	2020-10-20	61			2021-01-18	61
Memorial University	Informal Resolution	2020-03-24	61			2020-09-10	61
Town of Conception Bay South	Informal Resolution	2021-01-04	61			2021-03-30	61
Town of Torbay	Informal Resolution	2020-07-21	61			2020-10-19	61
Central Health	Informal Resolution	2020-11-20	62			2021-02-18	62
Executive Council	Informal Resolution	2020-06-12	62			2020-09-14	62
Department of Fisheries and Land Resources	Informal Resolution	2020-06-12	62			2020-09-14	62
Eastern Health	Informal Resolution	2020-02-24	64			2020-08-21	64
Department of Finance	Informal Resolution	2020-03-19	65			2020-09-16	65
Department of Finance	Report	2020-06-12	23	2020-07-17	3	2020-07-22	26
Department of Transportation and Works	Report	2020-06-12	9	2020-06-26	24	2020-07-31	33
Municipal Assessment Agency	Report	2020-11-13	34	2021-01-04	7	2021-01-13	41
Memorial University	Report	2020-01-08	30	2020-02-27	13	2020-05-26	43
Town of St. George's	Report	2020-06-16	35	2020-08-06	10	2020-08-20	45
City of St. John's	Report	2020-06-12	26	2020-07-22	20	2020-08-20	46
Memorial University	Report	2020-06-12	17	2020-07-09	32	2020-08-25	49
City of Mount Pearl	Report	2020-06-12	32	2020-07-30	17	2020-08-25	49
Human Resource Secretariat	Report	2020-07-28	35	2020-09-17	18	2020-10-14	53
Memorial University	Report	2020-06-12	39	2020-08-11	14	2020-08-31	53
Memorial University	Report	2020-06-12	39	2020-08-11	14	2020-08-31	53
Department of Transportation and Works	Report	2020-06-12	23	2020-07-17	31	2020-09-01	54
Department of Transportation and Infrastructure	Report	2020-09-09	29	2020-10-21	26	2020-11-27	55
Royal Newfoundland Constabulary	Report	2020-12-29	46	2021-03-04	11	2021-03-19	57
Memorial University	Report	2020-06-12	43	2020-08-17	14	2020-09-04	57

Public Body	Means of Resolution	Review Started	Days for Informal Review	Formal Review Stared	Days for Formal Review	Date Complaint Resolved	Total Days
Department of Business Tourism, Culture and Rural Development	Report	2019-12-13	49	2020-03-04	9	2020-06-01	58
Memorial University	Report	2020-01-13	38	2020-03-13	21	2020-07-10	59
Executive Council	Report	2020-11-05	33	2020-12-23	26	2021-02-01	59
Memorial University	Report	2020-09-02	30	2020-10-16	29	2020-11-27	59
House of Assembly	Report	2020-07-23	37	2020-09-16	25	2020-10-22	62
Town of Gander	Report	2020-10-22	38	2020-12-16	24	2021-01-21	62
Department of Digital Government and Service NL	Report	2020-10-20	37	2020-12-11	25	2021-01-19	62
City of Mount Pearl	Report	2020-09-23	60	2020-12-18	3	2020-12-23	63
City of Mount Pearl	Report	2020-06-12	43	2020-08-17	20	2020-09-15	63
Department of Health and Community Services	Report	2020-09-10	46	2020-11-17	18	2020-12-11	64
Department of Justice and Public Safety	Report	2020-10-30	62	2021-01-29	2	2021-02-02	64
Department of Intergovernmental and Indigenous Affairs Secretariat	Report	2020-04-07	53	2020-08-31	11	2020-09-16	64
Town of Northern Arm	Report	2020-11-18	49	2021-01-28	15	2021-02-18	64
Department of Fisheries, Forestry and Agriculture	Report	2020-11-09	47	2021-01-18	17	2021-02-10	64
City of St. John's	Report	2020-11-27	32	2021-01-14	32	2021-03-01	64
Memorial University	Report	2020-06-12	14	2020-07-06	50	2020-09-16	64
Office of the High Sheriff	Report	2020-11-26	60	2021-02-22	5	2021-03-01	65
Town of Conception Bay South	Report	2020-11-12	47	2021-01-20	18	2021-02-15	65
Memorial University	Report	2020-11-17	45	2021-01-21	20	2021-02-18	65
Town of Happy Valley-Goose Bay	Report	2020-11-17	44	2021-01-20	21	2021-02-18	65
Town of Paradise	Report	2020-07-02	41	2020-08-31	24	2020-10-05	65
Newfoundland and Labrador English School District	Report	2020-08-12	39	2020-10-07	26	2020-11-16	65
Memorial University	Report	2020-10-07	38	2020-12-02	27	2021-01-12	65
Public Service Commission	Report	2020-11-20	34	2021-01-11	31	2021-02-23	65
Town of Northern Arm	Declined to Investigate	2021-03-09	0			2021-03-09	0
Town of Salmon Cove	Declined to Investigate	2020-11-13	2			2020-11-17	2
Department of Environment, Climate Change and Municipalities	Declined to Investigate	2020-10-09	3			2020-10-15	3
Nalcor Energy	Declined to Investigate	2021-02-19	3			2021-02-24	3
Town of Salmon Cove	Declined to Investigate	2020-12-03	3			2020-12-08	3
Town of Northern Arm	Declined to Investigate	2020-10-09	3			2020-10-15	3
Public Service Commission	Declined to Investigate	2020-04-06	9			2020-04-16	9
Department of Tourism, Culture, Industry and Innovation	Declined to Investigate	2020-01-06	45			2020-04-22	45
Labour Relations Board	Declined to Investigate	2020-10-06	56			2020-12-28	56
Town of Salmon Cove	Determination on Costs	2021-01-15	17			2021-02-09	17
Town of Salmon Cove	Determination on Costs	2021-01-15	17			2021-02-09	17
Town of Salmon Cove	Determination on Costs	2020-11-23	39			2021-01-19	39
Workplace NL	Determination on Costs	2020-10-28	61			2021-01-26	61
Department of Fisheries and Land Resources	Formal Investigation not Conducted	2020-08-06	34			2020-09-24	34

Public Body	Means of Resolution	Review Started	Days for Informal Review	Formal Review Stared	Days for Formal Review	Date Complaint Resolved	Total Days
Department of Municipal Affairs and Environment	Formal Investigation not Conducted	2020-05-26	45			2020-08-19	45
Town of Grand Falls-Windsor	Formal Investigation not Conducted	2020-05-05	48			2020-08-24	48
Central Health	Formal Investigation not Conducted	2020-05-11	49			2020-08-25	49
Memorial University	Formal Investigation not Conducted	2020-03-22	2	2020-06-16	52	2020-08-31	54
Town of Salmon Cove	Formal Investigation not Conducted	2020-12-16	58			2021-03-10	58
Department of Justice and Public Safety	Formal Investigation not Conducted	2020-12-16	50	2021-02-26	13	2021-03-17	63
Department of Fisheries and Land Resources	Formal Investigation not Conducted	2020-06-12	64			2020-09-16	64
Nalcor Energy	Formal Investigation not Conducted	2020-06-12	64			2020-09-16	64
Department of Transportation and Works	No Jurisdiction	2020-06-23	2			2020-06-25	2
Town of Brighton	No Jurisdiction	2021-03-24	2			2021-03-26	2
Town of Northern Arm	No Jurisdiction	2020-06-24	2			2020-06-26	2
College of the North Atlantic	No Jurisdiction	2020-05-11	17			2020-06-02	17
Memorial University	No Jurisdiction	2020-05-11	17			2020-06-02	17
Newfoundland and Labrador English School District	No Jurisdiction	2020-05-11	17			2020-06-02	17
Royal Newfoundland Constabulary	No Jurisdiction	2020-06-29	20			2020-07-28	20
Royal Newfoundland Constabulary	Withdrawn	2021-03-11	5			2021-03-18	5
Memorial University	Withdrawn	2021-01-18	6			2021-01-26	6
Department of Health and Community Services	Withdrawn	2020-09-23	10			2020-10-07	10

## Appendix B

Timelines (business days) for Privacy Complaints for the  
2020-2021 Reporting Period under the  
*Access to Information and Protection of Privacy Act, 2015*





Public Body	Means of Resolution	Review Started	Date Complaint Resolved	Total Days
Department of Transportation and Works	Informal Resolution	2020-05-05	2020-07-08	16
Department of Immigration, Skills and Labour	Informal Resolution	2020-09-17	2020-10-23	25
Labrador - Grenfell Health	Informal Resolution	2020-02-21	2020-07-14	38
Newfoundland and Labrador Legal Aid Commission	Informal Resolution	2020-04-27	2020-08-13	41
Eastern Health	Informal Resolution	2020-08-07	2020-10-07	42
City of Mount Pearl	Informal Resolution	2020-09-08	2020-11-17	48
Town of Harbour Grace	Informal Resolution	2020-10-29	2021-01-19	55
Department of Children, Seniors and Social Development	Informal Resolution	2019-11-21	2020-05-25	74
Newfoundland and Labrador Housing Corporation	Informal Resolution	2020-02-20	2020-09-09	78
City of St. John's	Informal Resolution	2020-01-29	2020-08-17	78
Town of Happy Valley-Goose Bay	Informal Resolution	2020-11-05	2021-03-24	96
Newfoundland and Labrador Housing Corporation	Informal Resolution	2020-06-10	2020-11-09	101
Department of Children, Seniors and Social Development	Informal Resolution	2020-02-26	2020-10-21	103
Department of Finance	Informal Resolution	2019-09-26	2020-08-18	157
Office of the Premier	Informal Resolution	2020-01-10	2020-12-02	159
Eastern Health	Informal Resolution	2019-08-21	2020-08-13	179
Eastern Health	Informal Resolution	2019-08-15	2020-08-18	186
City of Mount Pearl	Report	2020-06-18	2020-07-31	30
Town of Howley	Report	2020-06-19	2020-08-31	49
Town of Howley	Report	2020-04-06	2020-08-31	53
Royal Newfoundland Constabulary	Report	2020-08-07	2020-12-14	88
City of Mount Pearl	Report	2019-12-02	2020-07-31	101
Town of Northern Arm	Report	2020-09-04	2021-02-17	113
Department of Children, Seniors and Social Development	No Jurisdiction	2020-09-04	2020-09-09	2
Royal Newfoundland Constabulary	No Jurisdiction	2020-08-18	2020-08-21	3
City of Mount Pearl	No Jurisdiction	2020-06-18	2020-06-30	8
City of Mount Pearl	No Jurisdiction	2020-06-18	2020-06-30	8
Memorial University	Formal Investigation not Conducted	2019-11-08	2020-04-08	82
Town of Witless Bay	Formal Investigation not Conducted	2019-12-03	2020-09-01	121
Memorial University	Formal Investigation not Conducted	2019-09-16	2020-10-01	196
Department of Transportation and Works	Withdrawn	2020-08-17	2020-08-18	1
Royal Newfoundland Constabulary	Withdrawn	2020-09-08	2020-09-14	4
Royal Newfoundland Constabulary	Withdrawn	2021-03-11	2021-03-18	5
City of Mount Pearl	Withdrawn	2020-12-16	2021-03-09	57



Office of the Information and Privacy Commissioner  
Sir Brian Dunfield Building, 3rd Floor, 2 Canada Drive  
P.O. Box 13004, Station "A", St. John's, NL A1B 3V8  
t (709) 729-6309 f (709) 729-6500 e commissioner@oipc.nl.ca

[www.oipc.nl.ca](http://www.oipc.nl.ca)

