



OFFICE OF THE INFORMATION  
AND PRIVACY COMMISSIONER  
NEWFOUNDLAND AND LABRADOR

## Report A-2024-020

May 2, 2024

### Department of Justice and Public Safety

**Summary:**

The Complainant made a request under the **Access to Information and Protection of Privacy Act, 2015** to the Department of Justice and Public Safety for records related to their probation file. The Department withheld some information pursuant to section 31 (law enforcement). Dissatisfied with this decision, the Complainant filed a complaint with this Office. After reviewing the responsive records, the Commissioner recommended disclosure of some additional information but found the exception had otherwise been applied correctly and recommended that the Department continue to withhold the remainder of the information.

**Statutes Cited:**

[Access to Information and Protection of Privacy Act, 2015](#), SNL 2015, c A-1.2, section 31.

**Authorities Relied On:**

NL OIPC Report [A-2022-017](#).

## BACKGROUND

- [1] On November 28, 2023 the Complainant made an access request under the **Access to Information and Protection of Privacy Act, 2015** (ATIPPA, 2015) to the Department of Justice and Public Safety for the following:

*All communication, including but not limited to, emails, documents, forms, text messages and cell phone records, (October 26, 2022- November 28, 2023), both internal and external, for my personal file with the St. John's Regional Probation Office, Department of Justice and Public Safety*

- [2] On January 25, 2024, the Department responded by providing 41 pages of responsive records. Some information was redacted pursuant to sections 31(1)(a), (l), and (n). The Department withheld a further 14 pages of records in their entirety pursuant to section 31(2)(c) of ATIPPA, 2015.

- [3] Dissatisfied with the response and seeking review of the decision to withhold this information, the Complainant filed a complaint with this Office. In response to the Complaint, the Department provided 55 pages of unredacted records to this Office for review. During the course of our investigation, the Department released some additional information to the Complainant. As informal resolution was unsuccessful with respect to the remainder of the withheld information, the complaint proceeded to formal investigation in accordance with section 44(4) of ATIPPA, 2015.

## ISSUES

- [4] The sole issue to be addressed in this Report is whether the Department correctly applied section 31 of ATIPPA, 2015 to the responsive records.

## DECISION

- [5] The relevant sections of ATIPPA, 2015 read as follows:

*31. (1) The head of a public body may refuse to disclose information to an applicant where the disclosure could reasonably be expected to*

(a) *interfere with or harm a law enforcement matter;*

...

(l) *reveal the arrangements for the security of property or a system, including a building, a vehicle, a computer system or a communications system;*

...

(n) *adversely affect the detection, investigation, prevention or prosecution of an offence or the security of a centre of lawful detention;*

31. (2) *The head of a public body may refuse to disclose information to an applicant if the Information*

...

*(c) is about the history, supervision or release of a person who is in custody or under supervision and the disclosure could reasonably be expected to harm the proper custody or supervision of that person.*

[6] Section 31(2)(c) was used to withhold several pages of information. This exception allows a public body to withhold information if it relates to a person who is in custody or under supervision and the disclosure could reasonably be expected to harm the custody or supervision of that person. In [A-2022-017](#), this Office agreed with the Department's application of this section over an internal report at Her Majesty's Penitentiary regarding the behavior of an inmate. In the present case, the record in question is a Case Management Report regarding community risk and the needs of the offender while they serve a conditional sentence. If the criteria for assessing risk and needs of the offender became known, it could reasonably undermine the assessment and thus supervision of an offender. In our view, this report meets the definition of section 31(2)(c) and the Department should continue to withhold it.

[7] However, in one instance the Department used section 31(2)(c) to redact an acronym referring to a type of record used in the offender management system. In our view, this is not information "about the history, supervision or release of a person" that "could reasonably be expected to harm the proper custody or supervision of that person."

- [8] In another record, comments from an officer about the logistics of completing a report about the Complainant's breach of their community service order were redacted pursuant to sections 31(1)(a), (l), and (n). In our view, this does not fit under section 31 as there is no evidence of harm and it does not reveal information about a security system.
- [9] Throughout the records, limited information about electronic monitoring equipment was redacted pursuant to sections 31(1)(a)(l) and (n). In our view, these redaction were reasonable and appropriate.

## RECOMMENDATIONS

- [10] I recommend the Department disclose the first redaction on page 48 and the single redaction on page 55 to the Complainant within 10 days of this Report.
- [11] As set out in section 49(1)(b) of *ATIPPA, 2015*, the head of the Department must give written notice of his or her decision with respect to these recommendations to the Commissioner and any person who was sent a copy of this Report within 10 business days of receiving this Report.
- [12] Dated at St. John's, in the Province of Newfoundland and Labrador, this 2<sup>nd</sup> day of May, 2024.



Michael Harvey  
Information and Privacy Commissioner  
Newfoundland and Labrador