



OFFICE OF THE INFORMATION
AND PRIVACY COMMISSIONER
NEWFOUNDLAND AND LABRADOR

Report A-2025-033

August 19, 2025

Royal Newfoundland Constabulary

Summary:

The Complainant had made an access request for call logs for an August 2020 telephone call from a Royal Newfoundland Constabulary (RNC) landline to the Newfoundland and Labrador Legal Aid Commission's toll-free number, along with the RNC's phone bill for that month and other related information. The RNC responded to the request to advise it did not have responsive records. In follow-up discussions, the RNC informed the complainant that the Department of Justice and Public Safety handled all billing related to its telephone lines. The Complainant alleged the RNC failed its duty to assist, missed deadlines in responding to the request, was misleading in its communications, and that it had custody or control of the requested records. On review, the Commissioner concluded the RNC did not have custody or control of the requested records and that it had met the duty to assist the Complainant.

Statutes Cited:

[Access to Information and Protection of Privacy Act, 2015](#), SNL 2015, c A-1.2, sections 8, 13, 14, 15, and 16.

Authorities Relied On: NL OIPC Reports [A-2009-011](#) and [A-2023-029](#).

Ontario OIPC [Order MO-2750](#).

[Canada \(Information Commissioner\) v. Canada \(Minister of National Defence\), 2011 SCC 25](#).

BACKGROUND

- [1] The Complainant made an access to information request to the Royal Newfoundland Constabulary (“RNC”) under the **Access to Information and Protection of Privacy Act, 2015** (the “Act”) for the following:

[RNC File Number]. I am requesting all call records/call logs from the phone number located in the phone room used for calling counsel as part of Brydges call.

I am requesting access to all call records/call logs related to the specific phone used in the phone room (RNC) to call Legal Aid NL's toll-free number 1-800-563-9911 or other counsel on [date], including: in coming/outgoing phone numbers and timestamps for all calls between the following times: [time and date]. Please request all these information from your telecom service provider. Note: Numbers in question are a matter of public knowledge and is not privileged information. As such, there should not be any redaction.

Please provide all information regarding RNC's and its telecom service provider retention policy pertaining to these matters.

I am requesting access to all information in relation to the financial statement of the phone number in question. I need a copy of the phone bill/invoice for the month of August 2020, along with itemized call list that is part of the bill and forms the financial statement. These financial statements (Bill and itemized call list) should both be in RNC's possession, as well as in the possession of the telecom service provider.

Please request the information from your service provider and sent it to my email address [email address] in a PDF format. In the event this information has been deleted or purged, please provide the exact date when this happened and the data retention policy of the provider.

- [2] In its final response to the request, the RNC advised the Complainant it did not have responsive records. The RNC advised the Complainant that its landline telephone system is provided by Bell Canada and the related bills are managed by the Department of Justice and Public Safety.
- [3] Dissatisfied with the RNC's response, the Complainant made a complaint to this Office, alleging the RNC had failed to respond to the request on time, had failed to transfer the

request, had not met the duty to assist, had provided misleading information in its responses, and had improperly withheld responsive records.

- [4] As informal resolution was unsuccessful, the complaint proceeded to formal investigation in accordance with section 44(4) of the Act.

COMPLAINANT'S POSITION

- [5] The Complainant submits that, despite the RNC's response that it does not have responsive records, it must have custody or control of the information requested.

- [6] The Complainant makes further allegations that the RNC did not properly handle their request:

1. Despite advising the Complainant the Department of Justice and Public Safety may have some of the requested information, the RNC did not transfer the request to that public body,
2. The RNC was misleading in its advisory response, suggesting that it had located and was reviewing records ten days after receiving the request,
3. The RNC failed to meet its duty to assist the Complainant, and
4. The RNC failed to respond to the request within 20 business days.

PUBLIC BODY'S POSITION

- [7] In response to the complaint, the RNC advises that on receipt of the request, its access to information coordinator consulted with senior staff, including its Manager of Facilities and Assets and its Director of Finance to discuss the request and whether the RNC would have responsive records. A search of the RNC's records was also conducted. Approximately ten business days after receiving the request, and after having sent its advisory response to the Complainant, the RNC concluded that it did not have responsive records since its telephone bills are managed by the Department of Justice and Public Safety. The coordinator contacted the Department to confirm that this was the case. The RNC's position is that since the telephones and related billing are managed by the Department, it does not have custody or

control of invoices or any of the other information the Complainant requested: bills are not sent to the RNC, nor are they paid by the RNC.

- [8] Part of the Complainant's allegations include a failure by the RNC to meet the duty to assist. The RNC submits that after providing its final response, it responded to the Complainant's several follow-up questions, providing additional information about how its telephone system and its bills were managed, and advising the Complainant to consider access requests to the Department of Justice and Public Safety or the Newfoundland and Labrador Legal Aid Commission. In these exchanges with the Complainant, the RNC acknowledged that its final response was one-day late and apologized for the delay.

ISSUES

- [9] At issue for this report are the Complainant's allegations that the RNC: failed to transfer their request (section 14); was misleading in its advisory response (section 15); failed to respond to the request on time (section 16); failed to meet the duty to assist (section 13); and that the RNC has custody or control of responsive records which have been withheld from the Complainant.

DECISION

Transferring Request

- [10] As noted above in the RNC's submissions, the RNC advised the Complainant that it might be possible to access the requested records through the Department of Justice and Public Safety or the Newfoundland and Labrador Legal Aid Commission. The Complainant contends that if that is the case, then the RNC ought to have transferred the request to one or both of those public bodies under section 14.
- [11] Section 14 allows (but does not require) a public body to transfer an access request where it appears the requested records were produced by or for another public body or is in the custody or control of another public body. If a public body intends to transfer a request, it is required to make the transfer within five business days of receiving a request from an

applicant. As noted in the RNC's submission, it was not until after the Coordinator had consulted with several senior staff members and run a search that the RNC concluded it did not have responsive records. By this point, the five business days to transfer a request had already passed. Not only is a public body not required to transfer a request, the RNC could not have done so by the time it determined other public bodies were likely to have responsive records.

Advisory Response

[12] Section 15 of the Act requires a public body to provide an advisory response to an applicant within ten business days of receiving a request. This advisory response is intended to provide an update to the applicant and to inform applicant about any issues then known that may impact the access request. The Complainant alleges the advisory response, and the statement that the RNC was reviewing responsive records, was misleading. The Complainant also alleges it was late.

[13] Related to the above commentary on transferring a request, the RNC has adequately explained that it was not until after the advisory response had been sent that it confirmed that it did not have responsive records. The request was made on March 28, 2025 and the RNC's advisory response was sent exactly ten business days later, on April 11, 2025, as required by the Act. We are satisfied the advisory response was timely and was not misleading but reflected the RNC's knowledge of the access request at the time it was prepared and sent to the Complainant.

Time Limit for Final Response

[14] The Complainant notes the request was made to the RNC on March 28, 2025 and the RNC's final response provided on April 29, 2025 – 21 business days later. Section 16 requires a public body to respond to an access to information request within 20 business days. In follow-up discussions with the Complainant, the RNC coordinator was forthright in acknowledging and apologizing for the one-day delay in providing the final response.

Duty to Assist

[15] As articulated in Report [A-2009-011](#), the duty to assist consists of three components:

First, the public body must assist an applicant in the early stages of making a request. Second, it must conduct a reasonable search for the requested records. Third, it must respond to the applicant in an open, accurate and complete manner.

[16] In terms of the search conducted by the RNC, the Coordinator consulted with senior staff and searched its own databases for records related to its telephone system or records related to the August 2020 phone call in question. The RNC also reached out to the Department of Justice and Public Safety to confirm the details of how that Department manages the RNC's telephone system. The only record located by the RNC's search was a brief document from the Department of Justice and Public Safety advising the RNC it had paid telephone invoices for August 2020. The record did not contain any of the information requested by the Complainant and the RNC concluded it was not responsive to the request. We agree with the RNC's assessment of the record. In all, we are satisfied the RNC conducted a reasonable search for records.

[17] The other part of the duty to assist is an obligation to respond to the applicant in an open, accurate and complete manner. Allegations that the RNC's advisory response were misleading have been addressed, above. After the RNC provided its final response to the Complainant, the Complainant posed several follow-up questions to the Coordinator. The RNC responded to provide additional information to the Complainant about the management of its telephones, to share information learned from the Department of Justice and Public Safety, to suggest other avenues for obtaining the requested information, and to apologize for the one-day delay in responding to the request.

[18] The remaining part of the duty to assist is assisting an applicant with making a request. This does appear to have been an issue. In conclusion, we are satisfied the RNC met its duty to assist the Complainant under section 13.

Custody or Control

[19] The main issue in this complaint is the Complainant's allegation that the RNC has custody or control of responsive records but has either withheld them or failed to obtain them from other entities. This contention is based on the fact the request is about the telephone system utilized daily by the RNC, so the Complainant believes the RNC ought to have information about its telephone system or be able to obtain the information from Bell Canada. The RNC's position is that the system is managed by the Department of Justice and Public Safety and much of the information requested by the Complainant might, potentially, be included in invoices related to the telephone system that are received and paid by that Department.

[20] The test for custody or control is articulated in [Canada \(Information Commissioner\) v. Canada \(Minister of National Defence\), 2011 SCC 25](#), and consists of two parts, both of which must be met:

1. Do the contents of the document relate to a departmental matter?
2. Could the government institution reasonably expect to obtain a copy of the document upon request?

[21] The second part of the test further requires an assessment of all relevant factors. A non-exhaustive list of factors to consider were set out by the Ontario Office of the Information and Privacy Commissioner in [Order MO-2750](#).

[22] In their submissions, the Complainant proposed that the telephone system is related to a departmental matter, due its use in facilitating access to legal counsel. While the RNC's policing mandate is subject to the Charter and the right to legal counsel, it does not necessarily follow that all of the logistics of providing that right (the details of the telephone system, how it is managed, or how bills are paid) is also part of its core or central function.

[23] The Complainant also submitted correspondence with Bell Canada following a request to that company under the federal **Personal Information Protection and Electronic Documents Act**, where Bell Canada advised it could not release that information because the phone number "would belong to the RNC or another entity" and that the request should be made

directly to the RNC. This direction from Bell Canada to contact the RNC about the records is not conclusive the RNC has custody or control of the records.

[24] While its telephone system is an asset the RNC uses daily, the management of that system is not a core or central function of the RNC. On that basis, we can conclude the first part of the test in Minister of Defence has not been met. Considering other factors, the present complaint is not unlike that involving Memorial University in Report [A-2023-029](#), where this Office concluded records about purchases by Memorial University Recreation Complex Inc. (an entity separately incorporated from Memorial University) were not in the custody or control of Memorial University. Similarly, it is clear the RNC does not have a contractual relationship with Bell Canada, and bills related to the telephone system are not created by the RNC, nor are they sent to the RNC or integrated into the RNC's records. The RNC does not rely on the telephone bills and does not have any right to regulate their content or use.

RECOMMENDATIONS

[25] Under the authority of section 47 of the **Access to Information and Protection of Privacy Act, 2015**, I recommend the Royal Newfoundland Constabulary:

1. Review its access to information policies and processes and, where applicable, implement measures to better comply with deadlines in the future, and
2. Maintain its position with respect to the subject matter of the request

[26] As set out in section 49(1)(b) of the **Access to Information and Protection of Privacy Act, 2015**, the head of the Royal Newfoundland Constabulary 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.

[27] Dated at St. John's, in the Province of Newfoundland and Labrador, this 19th day of August, 2025.



Kerry Hatfield
Information and Privacy Commissioner
Newfoundland and Labrador