



OFFICE OF THE INFORMATION
AND PRIVACY COMMISSIONER
NEWFOUNDLAND AND LABRADOR

Report A-2025-041

October 1, 2025

Royal Newfoundland Constabulary

Summary:

The Complainant made an access request to the Royal Newfoundland Constabulary for records relating to the death of a family member. The RNC provided some records but refused to disclose photographs taken at the site or a recording and transcript of a statement taken in the course of the investigation, citing section 40(1) of the **Access to Information and Protection of Privacy Act, 2015** (disclosure harmful to personal privacy) and section 24(1) of the **Fatalities Investigations Act**. The Commissioner concluded that the **Fatalities Investigations Act** prevailed and recommended that the RNC continue to withhold the photographs and statement.

Statutes Cited:

[Access to Information and Protection of Privacy Act, 2015](#), SNL 2015, c. A-1.2, section 7 and Schedule A.

[Fatalities Investigations Act](#), SNL 1995 c. F-6.1, sections 5, 11(2), and 24(1).

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 all information relating to the death of a family member who was found deceased by RNC officers conducting a wellness check. The Chief Medical Examiner determined the death to be from natural causes.
- [2] The RNC disclosed most of its investigation file but withheld some information. Among the information withheld by the RNC, initially citing section 40(1), were photographs taken at the site. The Complainant filed a complaint with our Office.
- [3] During our investigation, the RNC agreed to release additional information to the complainant which it had previously redacted. The RNC concluded, however, that while section 40(1) might not require withholding the photos under these circumstances, the **Fatalities Investigations Act** prevents disclosure.
- [4] As informal resolution was unsuccessful, the complaint proceeded to formal investigation in accordance with section 44(4) of the Act.

DECISION

- [5] The issue to be decided in this Report is whether the **Fatalities Investigations Act** requires the RNC to withhold the photos. Section 5 of the **Fatalities Investigations Act** establishes that a medical examiner or an investigator is to be notified in the case of any unexpected or unexplained death, as follows:

5. A person having knowledge of or reason to believe that a person has died under one of the following circumstances shall immediately notify a medical examiner or an investigator:
 - (a) as a result of violence, accident or suicide;
 - (b) unexpectedly when the person was in good health;
 - (c) where the person was not under the care of a physician;
 - (d) where the cause of death is undetermined; or

(e) as the result of improper or suspected negligent treatment by a person.

[6] In the present matter, a person called the RNC and when officers entered an apartment to conduct a wellness check they, found that a person was deceased. This is a part of the normal duties of the police and in such cases the police officers are acting not only as police officers under the Royal **Newfoundland Constabulary Act** but also as medical examiners investigators under section 11(2) of the **Fatalities Investigations Act**, which reads:

(2) Every member of the Royal Newfoundland Constabulary and the Royal Canadian Mounted Police is by virtue of the medical examiner's office, a medical examiner's investigator.

[7] Per the **Fatalities Investigations Act**, when the RNC officers attended the scene and took the photographs in question, they were acting as medical examiner's investigators, and the photos therefore became subject to section 24(1) of the **Fatalities Investigations Act**, which places restrictions on disclosure:

24(1) All reports, certificates and other records made by a person under this Act are the property of the government of the province and shall not be released without the permission of the Chief Medical Examiner.

[8] The photos of the scene in the custody of the RNC would be records that are responsive to an access to information request and the RNC would normally be required to disclose them, subject to any applicable exceptions to disclosure in the Act. However, section 24(1) of the **Fatalities Investigations Act** provides that only the Chief Medical Examiner has the authority to disclose them. This, then, is a conflict between these two acts.

[9] This conflict is resolved by section 7 of the Act, which governs such statutory conflicts:

7. (1) Where there is a conflict between this Act or a regulation made under this Act and another Act or regulation enacted before or after the coming into force of this Act, this Act or the regulation made under it shall prevail.

(2) Notwithstanding subsection (1), where access to a record is prohibited or restricted by, or the right to access a record is provided in a provision designated in Schedule A, that provision shall prevail over this Act or a regulation made under it.

[10] In some cases of such conflicts, section 7(1) applies so that this Act will prevail. An applicant would then have the right of access, subject only to the provisions of ATIPPA, 2015. However, under section 7(2) if another Act restricts access by a provision specifically listed in Schedule A then the other Act prevails. Schedule A, in paragraph (g), contains the following designation:

(g) subsection 24(1) of the **Fatalities Investigations Act**;

[11] The net effect of these provisions in the present case is that the **Fatalities Investigations Act** prevails and the RNC is not permitted to disclose the requested photos without the permission of the Chief Medical Examiner. The RNC has provided to our Office a copy of a letter from the Office of the Chief Medical Examiner stating that this permission is denied.

[12] There is, in the responsive records, a reference to an audio recording of a statement taken by an officer from an individual. A transcript of that statement was sent to the Office of the Chief Medical Examiner. As with the photos, this statement was taken while the officer was acting in the role of a medical examiner's investigator and the RNC cannot release either the transcript or the original audio, if it still exists, without permission from the Office of the Chief Medical Examiner.

[13] Therefore, this Office has no authority under the Act to recommend disclosure of the photos or of the recording or transcript of the statement by the RNC.

RECOMMENDATIONS

[14] Under the authority of section 47 of the **Access to Information and Protection of Privacy Act, 2015**, I recommend that the Royal Newfoundland Constabulary maintain its position and continue to withhold the photographs and the recording or transcript of the statement.

[15] 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.

[16] Dated at St. John's, in the Province of Newfoundland and Labrador, this 1st day of October 2025.



Kerry Hatfield
Information and Privacy Commissioner
Newfoundland and Labrador