



OFFICE OF THE INFORMATION
AND PRIVACY COMMISSIONER
NEWFOUNDLAND AND LABRADOR

Report A-2025-046

November 18, 2025

Department of Justice and Public Safety

Summary:

The Complainant made an access to information request to the Department of Justice and Public Safety for records related to a court matter and a previous access request. The Department asked the Complainant for clarification of the request. In its final response, the Department withheld some information under sections 30 (legal advice) and 31 (disclosure harmful to law enforcement). The Complainant alleged that the Department had improperly processed the request and had failed to properly apply exceptions to access, among other various issues. The Commissioner found that the Department had properly processed the request and appropriately applied exceptions to access. The Commissioner recommended that the Department maintain its position.

Statutes Cited:

[Access to Information and Protection of Privacy Act, 2015](#), SNL 2015, c A-1.2, sections 8, 11, 13, 14, 15, 17, 30, 31, 40, 96, and 97.

Authorities Relied On: NL OIPC Reports [A-2025-024](#).

BACKGROUND

[1] The Complainant made an access to information request to the Department of Justice and Public Safety under the **Access to Information and Protection of Privacy Act, 2015** (the “Act”) for the following:

1. Request for the name and title of the individual from the Prosecutor's Office who was responsible for providing or verifying the information disclosed in response to ATIPP Request JPS/18/2025, submitted to the Department of Justice and Public Safety (JPS).
2. Request for records of all documentation completed by the Crown during the charge approval or vetting process for File #20-45477, including but not limited to: a. Screening forms, b. Internal memos, c. Email communications with police, d. Any other records related to the Crown’s decision to proceed with charges.
3. Request for the name and title of the individual from the Prosecutor's Office who vetted the disclosure on February 3, 2021.
4. Request for records of all documents, communications, forms, or internal notes indicating the reason for delay in disclosure by the Royal Newfoundland Constabulary (RNC).
5. Request for all records pertaining to File #20-45477, including a complete copy of the entire case file as maintained by the Department of Justice and Public Safety and/or the Crown Prosecutor’s Office.

[2] The Department responded to the request by providing 117 pages of records, withholding some information under sections 30 and 31. Over the course of the investigation, the Department identified additional records that were responsive to the access request. These records were provided to the Complainant, with minimal redactions made under section 40.

[3] The Complainant was unsatisfied with the Department’s response to the request and filed a complaint with this Office stating that the Department had:

1. Violated sections 8, 11, 13, 17 and 40 of the Act by seeking clarification of the request,
2. Violated section 8 of the Act by withholding entire pages of records under sections 30 and 31, and

3. Misapplied various other sections of the Act in withholding records and its processing of the request.

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

DECISION

[5] The Complainant was informed that this investigation is limited to the Department's processing and response to this particular access request and that it would not be addressing any issues with previous access requests, the Crown's or Department's compliance with disclosure requirements during criminal proceedings, the contents or accuracy of the records provided, or any privacy issues. Our jurisdiction in this matter is limited to ensuring the Act has been followed while processing this request, including whether there was a reasonable search for records responsive to this request, and whether or not the exceptions to access have been appropriately applied.

[6] Additionally, the Complainant made a number of arguments related to their intended use of the records or the importance of the information to them. As noted in Report [A-2025-024](#):

[24] ... a requester's reason or motivation for making an access request is not relevant to how a request is processed. In fact, it would be inappropriate for a public body to ask an applicant for such information. Whether the Complainant is involved in legal proceedings for which the information may be needed is not something that either the public body or our Office should normally take into account.

[25] The duty to assist does not impose a higher standard on a public body where an applicant is seeking records for an important purpose

[7] With regard to the processing of the request, the Complainant misunderstood the Department's request for clarification on parts one and three of the request. The access provisions of the Act only apply to records. Public bodies are not required to provide answers to questions nor are they required to create records to answer questions. Parts one and three of the request were posed as questions to be answered, not a request for records, and the

Department reached out to clarify the request to ensure that it was searching for the correct records. This is in keeping with the duty to assist at section 13 of the Act. This Office encourages public bodies to work with applicants to ensure that requests are fulfilled in an appropriate manner.

[8] As also noted in Report [A-2025-024](#):

[9] Under section 13 of the Act, a public body has a duty to make every reasonable effort to assist an applicant in making a request. This duty includes efforts at the earliest stages to clarify a request, so that the public body can properly conduct a search and provide a response that focuses on the information that the requester actually wants.

[9] The request for clarification had nothing to do with a decision to withhold names under section 40 as argued by the Complainant. Additionally, in seeking clarification, the ATIPP Coordinator was not refusing access. As such, there is no conflict with section 17. Nor was the Department attempting to disregard the request, so there is no conflict with section 8.

[10] The Complainant argued the Department failed to meet its duties under section 17 as it did not provide sufficient detail in its final response regarding the records withheld. The Department indicated the specific subsections of the Act (including providing the wording of the sections) and the page numbers they were applying it to. Section 17(1)(c)(i) requires that public bodies provide reasons for a refusal of access, along with the provisions of the Act upon which the refusal is based. In some cases, it may not be possible to do so without disclosing information that the public body is entitled to withhold. In this case, I am satisfied that it was not practical for the Department to provide detailed reasons without disclosing information protected by an exception.

[11] Regarding the application of section 30 to the records, the Department declined to provide this Office with a copy for the records. However, the Department did provide a document indicating the number of pages, record type, parties to the communication, and a short description for each instance where section 30 was applied. Based on this information and the very nature of the request, the threshold to withhold the information under section 30 has been met. Section 31 was applied to the same information as section 30. Having not seen

the records, we must conclude the Department has not met the burden of proving section 31 applies. However, those records were in any case properly withheld under section 30.

[12] The Complainant has demanded that they be provided with a copy of the description of the section 30 records provided to us. As noted in Report [A-2025-024](#):

[14] The Complainant objects that they were not provided with the details of the Department's search methodology, what search steps were taken, what systems were reviewed, whether relevant staff were consulted, or whether email records, disclosure logs, or digital file tracking systems were searched. This is true – that is the way the investigation process works. Nothing in the Act entitles a requester to such information. Our Office was, however, provided with those details, and our conclusion was based on that information.

[13] The same principal applies here. This Office is the statutory oversight body that provides independent review of public body decisions. Pursuant to sections 96 and 97 of the Act we control our own procedure and we decide, on a case-by-case basis, whether representations made by one party may, in whole or in part, be provided to another party. There is no statutory entitlement to another party's representations, and in many cases the details of a party's representations must remain confidential.

[14] On the issue of severing information versus withholding entire pages, the fact that the Department has in some cases only redacted portions of records, as pointed out in the Complainant's submissions, is evidence that the Department did, in fact, sever information where reasonable.

[15] During our investigation, the Department identified additional records responsive to the request. These records were provided to the Complainant with limited redactions under section 40 to withhold personal information. However, on review, we concluded some of the information was not personal information. The Department agreed to remove those redactions and provide the amended records to the Complainant. However, due to time constraints, the records could not be provided prior to the release of this report.

[16] The Complainant also raised the notion that additional information should be disclosed in accordance with the public interest override in section 9. There is nothing in the nature of this access request which would tend towards an interpretation that any further release of these records is required under the public interest override.

Part 1

[17] The Complainant requested the name of the individual responsible for providing and verifying the information provided in response to a previous access request. As noted above, the Department is not required to provide answers to questions, only to provide responsive records. Despite this, the Department did answer this question.

Part 2

[18] The Complainant was provided with records responsive to this part of the request. Any records that the Complainant believes are missing would likely have been withheld under sections 30 and 31. In future, to avoid any confusion when requests are broken down into various parts, it would be advisable that the Department note in its final response if records have been withheld in relation to each individual part.

Part 3

[19] Despite being framed as a question rather than a request for records, the Department noted in its final response that responsive records did exist but had been withheld under sections 30 and 31. As noted above, this Office has determined that section 30 has been appropriately applied.

Part 4

[20] The Department responded that it has no records responsive to this part of the request. The Royal Newfoundland Constabulary is a separate public body under the Act and the Department of Justice does not have custody or control over Royal Newfoundland Constabulary records. As such, the Complainant would need to make a request to the Royal Newfoundland Constabulary for those records. In addition, the courts are not public bodies under the Act per section 2(x)(viii) and as such they are not subject to the access provisions of the Act. Regarding the Complainant's argument that the Department violated section 14,

this section allows for the transfer of a request to another public body, however it does not require a public body to do so. Therefore, the Department has not violated section 14 by not transferring the request.

Part 5

[21] This part of the request is addressed in the previous discussion about the application of sections 30 and 31.

RECOMMENDATIONS

[22] Under the authority of section 47 of the **Access to Information and Protection of Privacy Act, 2015**, I recommend that the Department of Justice and Public Safety:

1. In future, when responding to a multi-part request, advise an applicant if it is withholding records in full in relation to a specific part,
2. Proceed with removing the redactions agreed upon during the investigation and provide the amended records to the Complainant; and
3. On all other matters, maintain its position and continue to withhold the information withheld in its final response to the Complainant

[23] As set out in section 49(1)(b) of the **Access to Information and Protection of Privacy Act, 2015**, the head of Department of Justice and Public Safety 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.

[24] Dated at St. John's, in the Province of Newfoundland and Labrador, this 18th day of November 2025.



Kerry Hatfield
Information and Privacy Commissioner
Newfoundland and Labrador