



OFFICE OF THE INFORMATION
AND PRIVACY COMMISSIONER
NEWFOUNDLAND AND LABRADOR

Report A-2025-047

November 28, 2025

Department of Justice and Public Safety

Summary:

The Complainant made a request to the Department of Justice and Public Safety for records about a phone line provided by the Royal Newfoundland Constabulary for accused to contact legal counsel. The Department asked the Complainant for clarification of the request and, after the request was clarified, provided a final response advising there were no responsive records. The Complainant alleged the Department had improperly rejected their request, had not conducted a reasonable search for records, and had violated various provisions of the **Access to Information and Protection of Privacy Act, 2015**. The Commissioner found the Department had conducted a reasonable search for records and the allegations made by the Complainant were without merit. The Commissioner recommended the Department maintain its position.

Statutes Cited:

[Access to Information and Protection of Privacy Act, 2015](#), SNL 2015, c A-1.2, sections 5, 8, 9, 11, 13, 14, 15, and 17.

Authorities Relied On: NL OIPC Reports [A-2025-024](#), [A-2025-031](#), and [A-2025-033](#).

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

[Bose v. Newfoundland and Labrador \(Information and Privacy Commissioner\)](#), 2025 NLSC 18.

[CRIMS: 03-01 Financial Management – Accounts Payable](#).

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:

I am requesting access to all call records and call logs from the phone number located in the phone room used for contacting counsel as part of a Brydges consultation. Specifically I am requesting:

1. all call records and call logs from the phone number located in the phone room used for contacting counsel as part of a Brydges consultation. Specifically, I am requesting access to all call records and logs related to the phone used in the RNC’s phone room to contact Legal Aid NL’s toll-free number (1-800-563-9911) or any other legal counsel on [date provided by Complainant], including all incoming and outgoing numbers and corresponding timestamps between 12:00 a.m. and 6:00 a.m. on that date.
2. a copy of JPS’s and its telecom provider’s (Bell) data retention policy related to legal matters such as Brydges calls. Specifically, I am seeking information on:
 - How long Bell retains, or archives call data (phone number along with timestamp and metadata);
 - What legal or regulatory timelines govern the retention of such data in the context of criminal or legal matters.
3. all records related to the phone number in the RNC’s phone room, including:
 - A copy of the phone bill/invoice for [date provided by Complainant] between 12:00 a.m. and 6:00 a.m. ;
 - The itemized call list that forms part of the financial statement for the above date and time period
4. The full contract or agreement between Bell and JPS governing the phone number in question.
 - All appendices, SLAs (Service level agreements), and data handling/retention schedules attached to that agreement.
 - Any internal policies or procedures used by JPS to request or retrieve itemized billing or metadata.
5. Copies of all email communications with Bell relating to this matter, including those related to ATIPP Request RNC ATIPP AR 2025-105 PB/449/2025. No redactions should be applied, including employee names from Bell, as this is directly relevant to my legal matter and does not involve privileged information;
6. Copies of all future email communications with Bell that arise in connection with this ATIPP request.

- [2] The Complainant previously requested similar information from the Royal Newfoundland Constabulary and the Newfoundland and Labrador Legal Aid Commission. Over the course of those requests and subsequent investigations, it was determined those public bodies did not have custody or control of the requested records. As such it was recommended that the Complainant make a separate access request to the Department of Justice for those records. The Department's response to that request is the subject of this complaint.
- [3] As informal resolution was unsuccessful, the complaint proceeded to formal investigation in accordance with section 44(4) of the Act.

COMPLAINANT'S POSITION

- [4] The Complainant sought the following through their complaint to this Office:
- a) A finding that the Department violated sections 13, 14, 15, 16, and 17 of the Act;
 - b) A finding that the requested records (invoices with itemized call lists, call-detail records or call logs, and the Bell contract) are under the Department custody or control;
 - c) A recommendation for a new search for responsive records that includes contacting Bell for the invoices and call-detail records and the Department of Transportation and Infrastructure for the Bell service agreement;
 - d) A recommendation for the Department to transfer the portion of the request relating to the Bell agreement and its appendices to the Department of Transportation and Infrastructure under section 14;
 - e) Copies of any Record Disposition Authority, written CRA authorization for early destruction, and the permanent disposal record associated with the destroyed invoice and itemized call list;
 - f) A recommendation for the Department to disclose all responsive records located in electronic format pursuant to sections 20(2) and 20(3); and
 - g) A finding that the public-interest override at section 9 due to the strong public interest in transparency about Brydges calls, police accountability and the expenditure of public funds.

DECISION

- [5] As a preliminary issue, regarding part six of the request, the right of access only apply to records that exist at the time of the access request. Any records created after the date of the request, including records related to the processing of the request, do not need to be provided in response to that request.
- [6] The Complainant's request sought records related to the telephone systems used by the Royal Newfoundland Constabulary and the Newfoundland and Labrador Legal Aid Commission. On receipt of the request, the Department contacted the Complainant to suggest they make a request directly to those other public bodies. The Complainant alleges the Department violated section 13 of the Act by contacting them to clarify the request. However, public bodies are encouraged to communicate with applicants to ensure that requests are responded to properly, and clarification is often required in order to comply with the duty to assist. On its face, the request does seem to relate to Royal Newfoundland Constabulary or Newfoundland and Labrador Legal Aid Commission matters. However, after discussing the request with the Complainant, the Department acknowledged its initial interpretation of the request was incorrect and processed the request.
- [7] Section 14 allows a public body to transfer a request to another public body; however, it does not require a transfer. Additionally, suggesting that a request would be more properly made to another public body and if so, should be withdrawn, is not in contravention of the Act. There was no coercion or pressure in the present matter: just a suggestion and recommendation. As noted above, once the request was clarified, the Department proceeded to process the request. Had the Department transferred the request under section 14, and not reached out to the Complainant first, the process would have been delayed and would not have been beneficial to the Complainant.
- [8] The Complainant sent an email to the Department on July 15, 2025 asking a number of questions related to the search and requested records. The Department did not directly respond to the questions posed; However, the Department's final response answered several of the questions.

[9] The Department provided an advisory response to the Complainant within the required timeline. The Complainant argued that the advisory response should have included more information. The Department did not provide further information at that time as the request was still being processed and to provide any additional information would have been premature, as such there has been no violation of section 15.

[10] The Department did not breach the requirements under section 17 of the Act. The Department indicated that the only records it could locate were in the possession of the Department of Transportation and Infrastructure and provided information to allow the Complainant to make a new access to that public body. There were no responsive records found by the Department, therefore there was no need to identify how access would be given or to provide reasons for refusal.

Reasonable Search

[11] A reasonable search is one in which an employee, experienced in the subject matter, expends a reasonable effort to locate records which are reasonably related to the request. The threshold that must be met is one of “reasonableness”. In other words, it is not a standard of perfection, but rather what a fair and rational person would expect to be done or consider acceptable.

[12] As noted Report [A-2025-024](#):

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 . . . Nothing in the Act entitles a requester to such information.

The Department was not required to provide a detailed description of the searches in its final response to the Complainant.

[13] In response to this complaint, the Department provided a detailed description of the searches and consultations undertaken to locate records that may have been responsive to the request. This was not provided in a sworn affidavit and this Office does not require it to be, despite the Complainant’s request for one. The coordinator completed two electronic

searches of the Department's database using appropriate search terms. Of the over 130 results located in those searches, the coordinator determined that none of the records were responsive to the request. Additionally, the coordinator consulted with the Manager of Financial and General Operations, the Information Management Manger, and coordinators from the Department of Transportation and Infrastructure, Treasury Borad Secretariat, the Department of Finance, and Executive Council.

[14] The Department notes that while it may have had the records in the past, the records would fall under the retention schedule set out in Corporate Records Information Management Standard ("CRIMS"): 03-01, which allows these records to be destroyed after one year. The records relate to a call made in August 2020 and would have been destroyed four years ago. Additionally, the Department noted that Bell can only provide invoices from the previous two years, which also does not capture the records from 2020 sought by the Complainant.

[15] The Complainant has argued that the Canadian Revenue Agency requires the retention of documents used in tax filings for six years, including telephone bills, and as such the Departments destruction of the records under CRIMS: 03-01 is not lawful. Whether or not CRIMS: 03-01 is compliant with federal legislation is not within the scope of this investigation, nor is it within the jurisdiction of this Office. The facts are that even if the Department had records that were responsive to the request, they no longer exist as per the Department's pre-existing policies.

[16] The Complainant also demanded they be provided with destruction forms and any Canadian Revenue Agency authorization allowing for the early destruction of the records. These items were not requested in the original access request and are therefore also outside of the scope of this investigation.

[17] The Department was able to determine that the Department of Transportation and Infrastructure has an agreement that would be responsive to part four of the request. This was discovered after the five-day deadline to transfer the request as per section 14 and the

Department notified the Complainant in its final response, thus fulfilling its duty to assist in section 13.

Custody or Control

[18] As noted in Reports [A-2025-033](#) and [A-2025-031](#), the test for custody or control is articulated in **Canada (Information Commissioner) v. Canada (Minister of National Defence)**, and discussed in **Bose v. Newfoundland and Labrador (Information and Privacy Commissioner)** and consists of two parts, both of which must be met:

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

[19] As such, the first question that must be asked is if the records relate to a departmental matter.

[20] Bell's retention policy cannot be said to relate to a departmental matter. The Department has its own retention policies and what Bell's internal retention policies are, have nothing to do with the core functions of the Department of Justice and Public Safety. As the analysis fails on the first step of the test there is no need to proceed to an analysis of the second step.

[21] With respect to the actual call logs, Bell can only provide copies of bills for the previous two years, meaning the records requested by the Complainant, if they ever existed, are no longer accessible. Even if the call logs or bills were considered a departmental matter, there is no reasonable expectation that the Department could obtain them from Bell.

[22] With regard to the contract with Bell, this record was located and is in the custody or control of the Department of Transportation and Infrastructure. As with the Royal Newfoundland Constabulary, that is a separate public body and any requests for its records must be made to that public body directly.

Section 9

[23] Section 9 does not apply to this matter as the Department has not applied any exceptions to access. It simply does not have any records responsive to the request.

RECOMMENDATIONS

[24] 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 maintain its position.

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

[26] Dated at St. John's, in the Province of Newfoundland and Labrador, this 28th day of November 2025.



Kerry Hatfield
Information and Privacy Commissioner
Newfoundland and Labrador