OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER
NEWFOUNDLAND AND LABRADOR

Report A-2026-035

October 20, 2026

Department of Justice and Public Safety

Summary: The Complainant submitted an access to information request to the Department of Justice and Public Safety seeking all records related to the costs of retaining outside law firms to assist with a legal challenge. The Department replied that all information relating to these costs were protected by solicitor-client privilege and fell under section 30(1) of the **Access to Information and Protection of Privacy Act, 2015.** The Complainant challenged the Department's decision and filed a complaint with the OIPC. Upon review of the responsive records, this Office determined that some information within the legal bills were neutral and could be released. This Office further recommended that the remainder of the legal bills be withheld as they are protected by solicitor-client privilege.

Statutes Cited: Access to Information and Protection of Privacy Act, 2015, SNL 2015, c. A-1.2, s. 30(1).

Authorities Relied On: OIPC Report: A-2018-019; A-2017-026

Maranda v. Richer [2003] 3 SCR 193

Newfoundland and Labrador Legal Aid Commission (Re), 2019 NLSC 171

Newfoundland and Labrador (Information and Privacy Commissioner) v. College of the North Atlantic, 2013 NLTD 185

BACKGROUND

[1] The Complainant made an access request under the **Access to Information and Protection of Privacy Act, 2015** to the Department of Justice and Public Safety on June 3, 2026, seeking records relating to the cost of external legal counsel incurred by the province in a specific Supreme Court of Newfoundland matter.

[2] The Department's search did produce responsive records; however, all records were claimed to be covered by solicitor-client privilege and were withheld pursuant to section 30(1) of the Act.

[3] The Complainant disagrees with the Department's position and asserts that some information within the legal bills must be considered neutral.

[4] As informal resolution was unsuccessful, the complaint proceeded to formal investigation in accordance with section 44(4) of *ATIPPA, 2015*. The Department provided an unredacted copy of the records to this Office to facilitate our review.

PUBLIC BODY'S POSITION

[5] The Department submits that there is a presumption of solicitor-client privilege in relation to legal bills and in this matter that presumption should be upheld for the entirety of the legal bills at issue. The Department notes that although the matter to which the legal bills relate has come to an end, it is still an important issue within government and future strategies to address the province's concern on the matter are being considered and prepared. Therefore, the release of the legal bills would disclose information that is clearly covered by solicitor-client privilege while undermining efforts to further address the issues that gave rise to the legal challenge.

COMPLAINANT'S POSITION

[6] The Complainant's position is based upon an earlier ATIPP request to the Department: JPS/131/2024. That request was regarding the same court action as this current access request. In its response to the 2024 request, the Department did disclose some records, while noting that the only material withheld was pursuant to section 40(1).

DECISION

[7] The history of solicitor-client privilege and legal bills has been documented in previous OIPC decisions, most notably in Report A-2018-019. For the purposes of this Report, the degree to which solicitor-client privilege attaches to legal bills was set forth by Supreme Court Justice Lebel in *Maranda v. Richer* [2003] 3 SCR 193. In that decision, Justice Lebel wrote at paragraph 33:

> [33] . . . Because of the difficulties inherent in determining the extent to which the information contained in lawyers' bills of account is neutral information, and the importance of the constitutional values that disclosing it would endanger, recognizing a presumption that such information falls prima facie within the privileged category will better ensure that the objectives of this time-honoured privilege are achieved. That presumption is also more consistent with the aim of keeping impairments of solicitor-client privilege to a minimum . . .

[8] As noted in *Maranda,* there is a presumption that solicitor-client privilege covers legal bills, however this presumption can be rebutted. In Newfoundland and Labrador, the guiding factor when considering whether a claim of solicitor-client privilege can be rebutted in an access to information context was set forth by Justice Orsborn in *Newfoundland and Labrador Legal Aid Commission (Re),* 2019 NLSC 171. In his decision, Justice Orsborn cites (*Ontario (Attorney General) v. Ontario (Assistant Information and Privacy Commissioner),* 2005 CanLII 6045 (ON CA):

> [41] The presumption [of solicitor-client privilege attaching to a legal bill] will be rebutted if there is no reasonable possibility that disclosure of the amount of the fees paid will directly or indirectly reveal any communication protected by the privilege…If there is a reasonable possibility that the assiduous inquirer, aware of background information available to the public, could use the information requested concerning the amount of fees paid to deduce or

> otherwise acquire communications protected by the privilege, then the information is protected by the client/solicitor privilege and cannot be disclosed. If the requested satisfies the IPC that no such reasonable possibility exists, information as to the amount of fees paid is properly characterized as neutral and disclosable without impinging on the client/solicitor privilege.

[9] In this case, the Complainant was involved in the court action for which they are now seeking access to the legal bills. The Complainant had access to court documents and communicated with the lawyers working on the matter. As an assiduous inquirer, the Complainant possesses a great deal of information about the court case, which would allow them to connect aspects of the court action to the legal bills of the outside law firms retained by the province.

[10] Given the familiarity of the Complainant with the subject matter, any release of billing amounts and associated dates would infringe upon solicitor-client privilege as it would divulge information on specific work conducted by the firms on behalf of their client. This would also apply to periodic invoices sent to the provincial government that set out the cumulative legal fees and disbursements charged by the law firms. Despite the fact that these cumulative totals do not disclose what work was done, when it was done, and by which lawyer, the Complainant, being closely involved in the legal case, could potentially deduce from the cumulative amounts information that would be protected by solicitor-client privilege, such as when certain issues were addressed and the efforts made at various points of the court case. As Justice Orsborn noted in *Newfoundland and Labrador (Information and Privacy Commissioner) v. College of the North Atlantic,* 2013 NLTD (G) 185 at paragraph 41:

> [41] The information requested, particularly the amounts spent, both as to amount and as to timing, could be used by a diligent and persistent inquirer armed with the public court record to make inferences about the level of effort by CONA in defending the claim and in dealing with various aspects of the litigation as they arise from time to time. Such level of effort, as reflected by the amounts charged for legal services could reasonably be considered as being based on instructions and communications from the client, in this case CONA.

[11] Nonetheless, there are aspects of the legal bills that the Complainant is seeking that may be neutral. Such records are the exact same type disclosed by the Department in the

Complainant's 2024 access request. In 2024, the Department released the retention letters agreed to by the law firms engaged on a legal matter. The only information withheld was the signatures of the lead lawyer conducting the work and the Deputy Minister for the Department. Everything else was disclosed. In general, the retention letter from 2024 sets forth nothing about the legal matter for which the firms were retained and instead addressed billing, the use of technology, solicitor-client privilege, the law that governs the agreement and other issues not specific to the legal issue. A review of the retention letters in this matter shows them to be the same as that which was released in the 2024 access request. The only difference is the names of the lawyers to whom the letters are addressed. In 2024, the Department also released a billing template form that the law firms could use when submitting invoices. The billing template is neutral, as it contains no information related to the legal matter and the numbers used on the template are fabricated and used as an example. The same template is contained in the legal bills at issue in this matter and are the same as that which was released in 2024.

[12] Lastly is the record that lists the lawyers that will be working on the file and their hourly rates. In 2024, a record containing this information was released by the Department to the Complainant with nothing redacted. In this matter the disclosure of this record would not offend solicitor-client privilege. The hourly rates charged by the lawyers are neutral information that has no bearing on the legal matter. The names of the lawyers are also neutral information. There is nothing disclosed in the legal bills that would connect a lawyer to a particular part of the work performed on behalf of the provincial government.

[13] There is the issue of whether releasing the names of the lawyers would be considered an unreasonable invasion of privacy pursuant to section 40(1) of ATIPPA, 2015. However, in this instance that would not be the case as section 40(2) of the Act states that it is not an unreasonable invasion of privacy when the "disclosure reveals financial and other details of a contract to supply goods or services to a public body." The agreement between the Department and the law firms is a contract to supply services. As for releasing the names of those working on the contract, this was addressed in A-2017-026, where the Commissioner at the time noted when analyzing section 40(2)(g) that:

I conclude that Nalcor cannot withhold the names of the individual whose services Nalcor retain under a contract or the names of the company providing the services. These are essential "details" of the contract.

RECOMMENDATIONS

[14] 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) within ten days of the release of this report disclose to the Complainant the following:
    (a) the retention letters issued by the province to both law firms retained for the legal challenge referenced in this access request;
    (b) the billing template provided by the province to both law firms retained for the above-noted legal challenge;
    (c) disclose to the Complainant the record within the legal bills that sets out the names and hourly rates of the lawyers working on the above-noted legal challenge, subject to the redaction of any signatures.
2) that the Department maintains its position on the remainder of the responsive records.

[15] As set out in section 49(1)(b) of *ATIPPA, 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.

[16] Dated at St. John's, in the Province of Newfoundland and Labrador, this 20th day of October 2026.

Kerry Hatfield
Information and Privacy Commissioner
Newfoundland and Labrador