



OFFICE OF THE INFORMATION  
AND PRIVACY COMMISSIONER  
NEWFOUNDLAND AND LABRADOR

## Report P-2024-002

April 17, 2024

### Department of Justice and Public Safety

#### Summary:

The Complainant made a complaint to this Office alleging that the Department of Justice and Public Safety breached their privacy by issuing notices of garnishment to businesses that the Department should have known would not have maintained the Complainant's privacy. The notices were issued pursuant to the **Support Orders Enforcement Act**, which authorizes the director of the Support Enforcement Division of the Department to issue garnishment orders containing sufficient information about a debtor to properly allow a garnishee to meet its requirements under the order. The release of the personal information was permitted pursuant to sections 68(1) and 69(1) of ATIPPA, 2015. This Office found no evidence that the Department breached the Complainant's privacy in the issuance of the garnishment notices.

#### Statutes Cited:

[Access to Information and Protection of Privacy Act, 2015](#), SNL 2015, c A-1.2, section 68(1)

[Support Orders Enforcement Act, 2006](#), SNL 2006, c S-31.1, sections 2(b), 5(1), 6(1), 11(1), 12(1), 12(2), and 17(2).

## BACKGROUND

- [1] The Complainant made a privacy complaint to this Office under the **Access to Information and Protection of Privacy Act, 2015** (ATIPPA, 2015) against the Department of Justice and Public Safety:

*My personal information was improperly used by this organization [the Department] and sent improperly disclosed to individuals. These individuals include but not limited to [named individual] at [named business], Clarenville, NL, [named individual], Clarenville, NL, and [named individual], Clarenville NL.*

- [2] The Complainant alleges that their privacy was breached when the Support Enforcement Division of the Department sent notices of garnishment to several businesses. The Complainant was in arrears in their support payments and the businesses served with the notices of garnishment were believed to be involved in an ongoing financial transaction with the Complainant.
- [3] The Department states that there is no privacy breach in this matter and that the Director of the Support Enforcement Division performed their duty in compliance with the **Support Orders Enforcement Act, 2006. (SOEA)**
- [4] As informal resolution was unsuccessful, the Complaint proceeded to formal investigation in accordance with section 44(4) of ATIPPA, 2015.

## PUBLIC BODY'S POSITION

- [5] It is the position of the Department that there was no privacy breach in this matter. Section 6(1) of the **Support Orders Enforcement Act, 2006** grants the Director of Support Enforcement the authority to take what steps he or she considers necessary to enforce a support order. In this instance, the Director deemed a notice of garnishment to be the best approach given the nature of the financial transaction. The businesses that the Department served with the notice had a history of conducting financial transactions with the Complainant. Therefore, the Department submits its decision to issue the garnishment orders was based on reliable information. The Department does acknowledge that it discovered after the fact that a relative

of the person to whom the Complainant owed support did work at one of the businesses but they had no way of knowing that beforehand, as to do so would require disclosing the identities of those subject to the support order.

## COMPLAINANT'S POSITION

- [6] The Complainant states that Support Enforcement Division had no right to serve the garnishment orders on the businesses in Clarenville. The Complainant states that Support Enforcement Division knew that they no longer resided in the Clarenville area and that if the Division were sincere with their garnishment order, it would have focused on businesses closer to the Complainant's current home. To the Complainant, Support Enforcement Division issued the garnishment orders in Clarenville with the knowledge that someone at one of these businesses would disclose the order to others in the community and humiliate the Complainant.

## DECISION

- [7] The provisions of ATIPPA, 2015 relevant to this matter are as follows:

*68.(1) A public body may disclose personal information only*

...

*(r) in accordance with an Act of the province or Canada that authorizes or requires disclosure.*

- [8] The provisions of SOEA relevant to this matter are as follows:

*2. In this Act*

...

*(b) "creditor" means*

*(i) a person entitled under a support order to receive money for support on his or her own behalf or on behalf of another person,*

...

*5.(1) A support order may be registered with the director by a creditor or debtor in the manner prescribed by the regulations*

...

*6.(1) Where a support order is registered with the director under this Act*

*(a) the director shall take steps that he or she considers necessary to enforce the support order;*

...

*11.(1) The director may, for the purpose of enforcing a support order that is registered with the director, demand and receive from a person, corporation or public body, including the Crown, information within the knowledge of or shown on a record in the possession or control of the person, corporation or public body relating to the debtor or a person referenced in section 38.1 of the Interjurisdictional Support Orders Act with respect to whom a request to locate has been made, including*

...

*(d) assets and liabilities.*

...

*12.(1) A person shall not disclose information received by the director except in accordance with this Act or the regulations.*

*(2) Information received by the director under this Act may be disclosed only*

*(a) for the purpose of enforcing a support order registered with the director*

...

*17.(2) On receipt of the notice of garnishment, the garnishee shall immediately deliver, personally or by ordinary mail, a true copy of the notice to the debtor.*

### **Garnishment Orders Under the Support Orders Enforcement Act**

[9] SOEA exists to ensure that court orders regarding support have a mechanism to be enforced. This is done through a system of provincial government tools to help those seeking the implementation of a support order.

[10] The Act empowers the Director of Support Enforcement with broad authority to take whatever action and to make all necessary inquiries to enforce a support order. This authority is granted under section 6(1) of the Act. Section 11(1) of the Act sets out a lengthy list of information about the debtor that the Director can compel from individuals or businesses. One type of information is assets and liabilities, which are not defined in the Act.

[11] When a debtor is in arrears in support payments, the Director can issue a notice of garnishment to a third party that may be in possession of funds that are to be paid to the

debtor. The definition of this third party, known as the garnishee in the Act, is broad. Section 12 of SOEA limits the Director to disclose to the garnishee only the information needed to enforce an order. Therefore, there are limitations on the information that the Director can disclose about the debtor to the garnishee.

[12] In this instance, the notice of garnishment noted the Complainant was in arrears. The Support Enforcement Division received information that the Complainant was selling property and would potentially be receiving funds in an amount to satisfy some or all of the arrears. As a result, the Support Enforcement Division sent a notice of garnishment to two law firms that the Complainant had used in the past, as well as the real estate business involved in the transaction. The garnishment notices were properly completed and delivered to the businesses, indicating that the Complainant was in arrears in their support payments. The Department did not disclose any other information about the Complainant to any other person or business.

[13] Support enforcement involves trying to discover sources of income or financial benefit that can be used to satisfy a support order. This means the Support Enforcement Division can only act on the information available to it. In this case, the Support Enforcement Division had reason to believe that the Complainant was in the process of selling property. Support Enforcement were acting within its authority under SOEA to ensure that the funds from that sale were properly distributed pursuant to the support order.

[14] It is impossible for Support Enforcement Division to know if someone who knows, or is related to, a debtor works at the business to which a garnishment order is sent. Nor is there an expectation that the Division even conduct such a query. Section 12(1) of SOEA places an obligation on anyone receiving a garnishment order not to disclose anything regarding that order except in accordance with the Act. If the information from the garnishment notices is being discussed in the community, as the Complainant alleges, it is the result of one or more of the businesses served with the notice breaching their responsibility under section 12(1) of SOEA. There is no evidence to suggest that the Support Enforcement Division acted outside of its authority under SOEA. The companies involved are not public bodies subject to ATIPPA, 2015, and therefore this Office has no jurisdiction over them.

### Disclosure of Personal Information Under *ATIPPA, 2015*

[15] ATIPPA, 2015 does permit the use or disclosure of personal information under specific instances. In particular, section 68(1)(r) of the Act that allows for the disclosure of personal information if it is in accordance with provincial legislation. In this matter, the disclosure of personal information was pursuant to SOEA, which permits personal information be disclosed in specific circumstances to facilitate the enforcement of a court-issued support order. The disclosure of such information is limited in scope and is specific to the enforcement measure being taken by the Support Enforcement Division. In this case, there is no evidence to suggest that the Department disclosed more information than permitted by law.

### RECOMMENDATIONS

[16] Under the authority of section 76 of ATIPPA, 2015, I make no recommendation on this matter.

[17] As set out in section 78(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.

[18] Dated at St. John's, in the Province of Newfoundland and Labrador, this 17<sup>th</sup> day of April 2024.



Michael Harvey  
Information and Privacy Commissioner  
Newfoundland and Labrador