

September 16, 2026

Access to Information and Protection of Privacy Statutory Review 2025
2nd Floor, Beothuck Building
20 Crosbie Place St. John's
NL A1B 3Y8

Re: submissions to the ATIPPA Statutory Review Committee 2025

Dear Committee,

The mandate of the Committee includes “consideration of the 2020 Statutory Review recommendations issued by the Honourable David B. Orsborn for applicability or revision.”

The Honourable David B. Orsborn, the 2020 Committee of one, submitted his final report to the then Minister of Justice and Public Safety “JPS”) on 8 June 2021. Attempts to modify some of his [recommendations](#) started shortly thereafter.

On 16 November 2021, Ms. Denise Woodrow, the then Assistant Deputy Minister of JPS contacted the Honourable David B. Orsborn inviting him to meet the JPS staff and “discuss further some recommendations” (see p. 4). After the October 2025 elections Ms. Woodrow moved to the position of the Assistant Deputy Minister of Forestry, Agriculture and Lands but [continues to represent](#) the JPS on the Rules Committee of the Supreme Court chaired by its Chief Justice, the Honourable Raymond P. Whalen.

Honourable David B. Orsborn responded on 18 November 2021 saying that he “would not feel comfortable, given the nature of the process followed, in trying to further justify or support a recommendation beyond what is said in the Report or in reconsidering a recommendation based on further discussions” (p. 5). He also suggested that, if the proposed meeting takes place, “Review counsel Adrienne Ding could attend she was heavily involved with JPS/Leg Counsel on many drafting issues.” After the October 2025 elections Ms. Ding successfully defended the new Government against several [applications](#) for an election recount and was [appointed](#) an Interim Consumer Advocate.

The meeting never took place. It appears that the previous Government sought reconsideration of some recommendations made by the Honourable David B. Orsborn, as he suspected.

The subsequent developments further confirm that the previous Government was unhappy with some recommendations. At this time, one can only speculate which ones.

The involvement of the Office of the Chief Information Officer (pp. 7-8) suggests, however, that at least some of the recommendations deemed unacceptable may refer to the delivery of documents in the format requested. The Access to Information and Protection of Privacy Statutory Review 2020 recommended that “the Act be amended to specify that when a record exists in a format specifically requested, a public body should provide it in that format when it is reasonably practicable” (p. 3).

The OCIO's mandate includes the administration of the [Management of Information Act](#). The provision of records in the format requested echoes the [requirement](#) that "the electronic information [be] retained in the format in which it was made, sent or received or in a format that does not materially change the electronic information that was originally created, sent or received."

Simply put, public bodies, including the Government, should not be allowed to manipulate the records or to expect that such manipulations would remain unnoticed. To minimize the risk of tampering, it is enough to make the ATIPPA consistent with the Management of Information Act. Public bodies already have the duty to retain the record in the format in which it was made, sent or received or in a format that does not materially change the electronic information that was originally created, sent or received. It suffices to enable the requester to access the record in the format that either minimizes the risk of alteration or makes such alterations discoverable. For instance, manipulations with emails and pdf files are potentially traceable by reviewing their metadata (internet headers of an email, properties of a pdf file, etc.).

All in all, it suffices to implement the recommendation already made.

The resistance to the recommendations turned out to be so significant that in 2022 the Government started a separate PR campaign aimed to justify the continuous delays and the failure of the Minister responsible for the ATIPPA to discharge his [statutory duty](#) amending the Act by 2020 (pp. 9-14). Even the next deadline for amending the ATIPPA, 2025, was not met.

The stated [purpose](#) of the ATIPPA is to increase transparency in government and public bodies so that elected officials, officers and employees of public bodies remain accountable. In the spirit of this clearly stated legislative intent, the public should be informed at least now of the reasons for not implementing the Honourable David B. Orsborn's recommendations in time. This information will help better understand the current situation with the 2020 Statutory Review recommendations and prevent the deliberate omission of some of them when finally amending the ATIPPA.

All of which is respectfully submitted by



Dr. Anton Oleynik, Professor

Website: <https://antonoleinik.ca/dr.-anton-oleinik>

RECOMMENDATION

- That the *Act* be amended to specify that when a record exists in a format specifically requested, a public body should provide it in that format when it is reasonably practicable. Otherwise, it can be provided in a format either agreed upon with the applicant or that does not materially change the content. (Any record provided, regardless of format, remains subject to redaction in accordance with the exceptions in the *Act*.) [Appendix K, s. 20(6) and (7)]

Administrative

- That the OCIO and the ATIPP Office make available to the smaller public bodies basic training and information responding to requests for a record in a particular format.

Transfer of Requests

RECOMMENDATION

- That the *Act* be amended to expand the window for transferring requests between public bodies to 10 days. [Appendix K, s. 14(1)]

Administrative:

- That concurrently with the transfer of an access request to another public body, the transferring coordinator notify the ATIPP Office of the transfer.

Advisory Response

November 16, 2021

Chair David Orsborn
dorsborn@bensonbuffett.com

Dear Chair Orsborn,

Re: Request to meet to discuss recommendations made as Chair of the ATIPPA Review Committee

I am writing with respect to the final report that you submitted to the Minister of Justice and Public Safety (JPS) on June 8, 2021, as Chair of the 2020 ATIPPA Review Committee.

JPS has had the opportunity to complete a thorough review of your report and the recommendations/suggestions contained within. We were hoping to have the opportunity to discuss further some of these recommendations, as we feel some clarification is required prior to making a final decision on how to proceed.

For your reference, the recommendations that we are interested in discussing are attached.

If you are amenable to meeting with JPS staff, we can arrange a time suitable to your schedule.

I look forward to your response.
Yours truly,



DENISE WOODROW
Assistant Deputy Minister (A)
Corrections & Community Services

Discovery - Justice

From: David Orsborn <dorsborn@bensonbuffett.com>
Sent: Thursday, November 18, 2021 8:44 AM
To: Battcock, Paula
Subject: RE: Request to meet to discuss recommendations made as Chair of the ATIPPA Review Committee

Ms Battcock – thank you for the letter from ADM Denise Woodrow. I would be prepared to meet and discuss the matters indicated to the extent that a particular recommendation may not be clear as to its intent. You will appreciate that I would not feel comfortable, given the nature of the process followed, in trying to further justify or support a recommendation beyond what is said in the Report or in reconsidering a recommendation based on further discussions. In similar vein, if government feels that a recommendation could lead to practical difficulties, that may be a reason to either reject the recommendation or modify it in some fashion. That is a decision for government. Subject to these considerations, I am prepared to be of whatever help JPS feels I can be. I would also appreciate if Review counsel Adrienne Ding could attend – she was heavily involved with JPS/Leg Counsel on many drafting issues. I do hope you understand my position. Please let me know what you would like to do – before meeting, we will need some time to go back over the Report.

Many thanks
 David O



David Orsborn
 Counsel

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From: Battcock, Paula <PaulaBattcock@gov.nl.ca>
Sent: November 17, 2021 9:13 AM
To: David Orsborn <dorsborn@bensonbuffett.com>
Subject: Request to meet to discuss recommendations made as Chair of the ATIPPA Review Committee

Good morning Mr. Orsborn,

Please find attached correspondence from ADM Denise Woodrow in connection with the above noted.

Paula Battcock

*Assistant to the Assistant Deputy Minister
of the Department of Justice and Public Safety*
Department of Justice and Public Safety
PO Box 8700
St. John's, NL A1B 4J6
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January 13, 2021

Meeting with OCIO re: access to account through the multi-mailbox search (MMS) tool.

Overall purpose: to review ways to streamline/modify current process

In attendance: Sonja El-Gohary (ATIPP Office); Mark Mahoney and Craig Piercey (OCIO – Operations); Renee Pendergast and Kim Porter (OCIO - IM)

Option One – can coordinators have access to all accounts within their departments with appropriate approvals being reviewed annually?

s.29(1)(a), s.35(1)(c)

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Next steps: N/A – this is not a viable option – will not review further.

Option 2 – do coordinators have to continue to submit a separate request forms for the same account if they still have access in relation to a previous request?

- From an operations perspective, this poses no issues or changes for their process (would just reduce number of requests).
- From an IM/security/confidentiality perspective this poses no concerns as the coordinator already has access until the cut-off date of the original request.

Next steps: Sonja will draft email to coordinators advising this is no longer required. Will send to OCIO for review prior to sending final email. In addition to advising coordinators of the change, the email will ask if this resolves their issues with the current process, and if not, which specific issues remain.

s.29(1)(a), s.35(1)(c)

Next steps:

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s.29(1)(a)

- Everyone will meet again in a month or so to review option 3 in greater detail re: ways to mitigate outstanding concerns.
- Will review responses from coordinators to review any outstanding issues they may have with the current process.

KEY MESSAGES

Justice and Public Safety

ATIPPA Review

March 3, 2022

Summary:

Former Chief Justice, David B. Orsborn has completed the statutory review of the Access to Information and Protection of Privacy Act, 2015 (ATIPPA, 2015).

Anticipated Questions:

Will you be implementing all of the recommendations?

When will changes to the Act be made?

Key messages:

- The independent review made approximately 150 recommendations and suggestions to the Government of Newfoundland and Labrador.
- The recommendations apply to all public bodies defined in the Act, including government departments, agencies, health boards, school boards and municipalities.
- Some of the key recommendations include:
 - Changes to internal administrative procedures to improve access;
 - [REDACTED] s.29(1)(a)
 - [REDACTED]
 - The extension of the intergovernmental relations exception to cover all Indigenous self-governing bodies; and,
 - Provisions that would see more public bodies being subject to complete privacy assessments on the programs and services they provide.
- The Provincial Government is reviewing and evaluating the recommendations to determine how best to proceed. The Committee's report was very thorough and as a Government we are taking the time to complete a full analysis before making any changes.
- Several of the recommendations are in line with recommendations made to the Commissioner by government departments, in particular regarding the day to day administration of the Act.
- As a Government we remain committed to openness and transparency. This report will help ensure Newfoundland and Labrador continues to be a leader in Government accountability.

Secondary Messages:

- The Act requires a statutory review every five years.
- Mr. Orsborn sought written submissions from stakeholders in November 2021 and public hearings were held between January 18 - 29, 2021, and May 10 - 12, 2021.
- \$200,000 was budgeted for the review. The review was completed at a cost of \$175,000.
- Since coming into force, the number of ATIPP requests received by Government has increased significantly. In fiscal year 2019-20, there were over 2,879 access requests received across all public bodies in the province. That's up from 2,412 the year before (a 19 percent increase). In 2014-15 public bodies received just over 750 requests.
- ATIPPA, 2015 increases government accountability by providing the public with the right of access to records and protecting the privacy of individuals whose personal information is collected, used and disclosed by public bodies.
- ATIPPA, 2015 has been identified as one of the most progressive in the country.

KEY MESSAGES

Justice and Public Safety

ATIPPA Review

September, 2022

Summary:

The statutory review of the Access to Information and Protection of Privacy Act, 2015 (ATIPPA, 2015) completed by former Chief Justice, David B. Orsborn was released on June 9, 2021.

Anticipated Questions:

Will you be implementing all of the recommendations?

When will changes to the Act be made?

Key messages:

- The independent review made approximately 150 recommendations and suggestions to the Government of Newfoundland and Labrador.
- The recommendations apply to all public bodies defined in the Act, including government departments, agencies, health boards, school boards and municipalities.
- Some of the key recommendations include:
 - Changes to internal administrative procedures to improve access;
 - The extension of the intergovernmental relations exception to cover all Indigenous self-governing bodies; and,
 - Provisions that would see more public bodies being subject to complete privacy assessments on the programs and services they provide.
- The Provincial Government is reviewing and evaluating the recommendations to determine how best to proceed. The Committee's report was very thorough and while JPS has made significant progress in reviewing the recommendations, as a Government we are taking the time to complete a full analysis before making any changes.
- Several of the recommendations are in line with recommendations made to the Commissioner by government departments, in particular regarding the day to day administration of the Act.
- As a Government we remain committed to openness and transparency. This report will help ensure Newfoundland and Labrador continues to be a leader in Government accountability.

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- \$200,000 was budgeted for the review. The review was completed at a cost of \$175,000.
- Since coming into force in 2015, the number of ATIPP requests received by Government has increased significantly.
- ATIPPA, 2015 increases government accountability by providing the public with the right of access to records and protecting the privacy of individuals whose personal information is collected, used and disclosed by public bodies.
- ATIPPA, 2015 has been identified as one of the most progressive in the country.

KEY MESSAGES

Justice and Public Safety

ATIPPA

October, 2022

Summary:

In the annual report, the Office of the Information and Privacy Commissioner (OIPC) has stated that the Access to Information and Protection of Privacy Act, 2015 (ATIPPA) is not working like it used to and there appears to be strains on the system.

Anticipated Questions:

Is ATIPP still a priority for government?

Is anything being done to improve ATIPP?

Key messages:

- The Department recognizes the importance of the Access to Information and Protection of Privacy Act, 2015 (ATIPPA, 2015).
- There has been a significant increase in the number of ATIPP requests received since the Act changed in 2015. Prior to the amendments, public bodies received less than 800 requests a year. In recent years the number of requests has exceeded 2,500.
- While not finalized, statistics for 2021-22 indicate that public bodies received over 3,500 requests. ATIPP coordinators in public bodies work tirelessly to fulfill the obligations of the legislation and provide responses within the legislated timelines.
- Government recognizes this and has been reviewing ways to improve the administration of the Act, which includes the ATIPPA review that took place last year.
- The most recent review of the Act conducted by Justice Orsborn made approximately 150 recommendations and suggestions to the Government of Newfoundland and Labrador, many of which relate to the administration of the Act.
- The Committee's report was very thorough and the department continues to review and evaluate the recommendations and anticipate that some will be addressed in the near future.
- Several of the recommendations are in line with recommendations made to the Commissioner by government departments, in particular regarding the day to day administration of the Act.
- As a Government we remain committed to openness and transparency. Improvements to the legislation will help ensure Newfoundland and Labrador continues to be a leader in Government accountability.

Secondary Messages:

- Information for fiscal year 2021/22 is still being gathered. Based on the information available there were over 3,500 access requests received across all public bodies in the province.
- In fiscal year 2020-21, there were over 2,704 access requests received across all public bodies in the province. Of these, 1,728 requests were received by departments. In the requests to departments, 1,056 (61 per cent) resulted in partial or full disclosure, 315 (18 per cent) were for information where there were no responsive records, access was denied in 46 (three per cent) requests, while 226 (13 per cent) were withdrawn. The exception for Legal Advice was applied in 95 (5.5 per cent) requests.
- In fiscal year 2019-20, there were over 2,879 access requests received across all public bodies in the province, up from 2,412 the year before (a 19 percent increase). Of these, 1,943 requests were received by departments. In the requests to departments, 1,169 (60 per cent) resulted in partial or full disclosure, 406 (21 per cent) were for information where there were no responsive records, access was denied in 64 (three per cent) requests, while 244 (13 per cent) were withdrawn. The exception for Legal Advice was applied in 108 (seven per cent) requests.
- The statutory review of the Access to Information and Protection of Privacy Act, 2015 (ATIPPA, 2015) completed by former Chief Justice, David B. Orsborn was released on June 9, 2021. The Act requires a statutory review every five years.
- Mr. Orsborn sought written submissions from stakeholders in November 2021 and public hearings were held between January 18 - 29, 2021, and May 10 - 12, 2021.
- The recommendations apply to all public bodies defined in the Act, including government departments, agencies, health boards, school boards and municipalities.
- Some of the key recommendations include:
 - Changes to internal administrative procedures to improve access;
 - The extension of the intergovernmental relations exception to cover all Indigenous self-governing bodies; and,
 - Provisions that would see more public bodies being subject to complete privacy assessments on the programs and services they provide.
- \$200,000 was budgeted for the review. The review was completed at a cost of \$175,000.
- ATIPPA, 2015 increases government accountability by providing the public with the right of access to records and protecting the privacy of individuals whose personal information is collected, used and disclosed by public bodies.
- ATIPPA, 2015 has been identified as one of the most progressive in the country.