

Submission to the Statutory Review of ATIPPA, 2015

Conducted by Keri-Lynn Power

Submission 1 of Multiple — GS-124-2025 — Report A-2026-014

August 17, 2026

Submitted by:

David Hanrahan

Executive Summary

I am a self-represented senior on a fixed income. This submission documents five structural gaps in ATIPPA, 2015 that became evident during access complaint GS-124-2025, which produced Report A-2026-014 on May 28 2026, and during my attempt afterwards to obtain a single administrative record through a new access request. It proposes nine legislative amendments. It does not ask this Committee to revisit any complaint outcome. Every amendment is forward looking.

The core sequence. Government Services withheld records under discretionary exemptions. Before applying a discretionary exemption a public body must consider the public interest under Section 9. I asked the OIPC during the complaint for a summary of the Department's Section 9 analysis so I could respond to it. I was refused. The report accepted the Department's Section 9 conclusion in a single sentence without disclosing the reasoning behind it. Twenty-four minutes after I asked two follow-up questions, the file was closed with no further correspondence. I then turned to Part II of the Act. A first request for the Department's submissions to the OIPC was refused in full under Section 41(c) as connected with that Office's investigatory functions. I did not appeal that refusal. I narrowed the request instead, to a single record created by the Department in its own files before the complaint existed, and filed it the next day. That narrowed request was disregarded under Section 21(1)(c)(ii) with the approval of the same Office that had declined to disclose the record during the complaint. The only remaining remedy is the Supreme Court Trial Division.

The five gaps.

1. **Section 9 engagement.** The Act does not require the Commissioner's report to explain why specific documented public interest arguments failed. A complainant who submits detailed evidence receives the same one sentence as a complainant who submits none.
2. **Search adequacy.** The Act does not require the report to address a specific, verifiable factual challenge to a search. I identified that the search period began a full year after the release of the Auditor General report most relevant to my request. The report did not address it.
3. **Access to the Section 9 analysis.** A complainant has no right to see the public body's Section 9 reasoning, and no practical route to obtain it afterwards. This gap produced

five of the nine amendments because the attempt to obtain the record revealed a second layer of problems in how Section 21 operates.

4. **Solicitor-client self-certification.** Records withheld entirely under Section 30 are verified by the public body's own solicitor. No independent review occurs, and severability under Section 8(2) is never confirmed.
5. **Corroborative evidence.** The Act does not require the Commissioner to consider whether records already disclosed in the file corroborate the complainant's public interest arguments. The Department released an April 2023 email in which its own Director of Collections wrote that accounts past the six year limitation period were being received routinely, asked who if anyone checks for limitation compliance before transfer, and said direction was needed urgently. That record is at Annex D. The report does not mention it.

What the documentary record shows on Gap 3. Four facts in the annexed correspondence require no interpretation. Government Services sent me a formal Section 15 advisory response on July 17 stating my request was being processed toward a July 31 final response, and retracted it on July 21 one minute after issuing the disregard, explaining that the coordinator "was unaware of the circumstances." The Act sets deadlines for applying for a disregard and for deciding it, but none for notifying the applicant, so eighteen days passed before I learned of it. The notice of disregard directed me to file a complaint with the Commissioner under Section 42, while Section 42(8)(a) — reproduced inside the same letter, and omitted from the mandatory notice contents in Section 21(6) — forbids exactly that. And no statutory exemption has ever been identified for the record itself, in the notice or in any of the Commissioner's responses.

The consequence. The record I sought remains disclosable on its merits to any other person in this province. The ground used against me rests on my own request history, so it cannot apply to an applicant who never complained. Filing a complaint therefore left me with fewer access rights than if I had never complained at all. That outcome is not in the statute; it is what the statute currently permits.

What I ask. That the Committee consider the nine amendments set out below, and in particular that Section 21 be amended so that a disregard cannot rest on an applicant's use of the oversight process, cannot withhold from one applicant a record disclosable to everyone else, and cannot be issued without dated, reasoned and accurate notice.

Purpose of This Submission

This submission identifies five structural gaps in ATIPPA, 2015 that became evident during access complaint GS-124-2025, which resulted in Report A-2026-014 issued May 28, 2026, and during my attempt afterwards to obtain a single administrative record through a new access request. It proposes nine legislative amendments. This is the first of multiple separate submissions I intend to provide to this review; each addresses specific provisions of the Act and proposes specific amendments.

Gap 3 produced five of those nine amendments rather than one. My attempt to obtain the Section 9 analysis through a direct access request after the complaint closed revealed a second and deeper layer of structural problems. The disregard of that request, and the Commissioner's

responses when I challenged it, document how the complaint process and the access right can operate against each other in ways the legislature cannot have intended.

This submission is offered as empirical evidence, not as an appeal. It does not ask this Committee or the Independent Reviewer to revisit, reopen or alter the outcome of any complaint, report or proceeding. The case studies and correspondence reproduced here serve to illustrate how Sections 9, 21, 29 and 30 are applied in practice, and where practice falls short of the purpose stated in Section 3. Every proposed amendment is forward-looking, directed at ensuring that future applicants receive purpose-blind, accessible and transparent oversight under the Act. Why the characterisation of access request GS-077-2026 as re-litigation is a legal error is addressed in Gap 3, after the documented correspondence.

I am a self-represented senior on a fixed income. My experience over the past eight months is a ground level view of how ATIPPA, 2015 operates for an ordinary citizen dealing with a government department that controls both the records and the process for accessing them.

Background — The Complaint GS-124-2025

What Was Requested

In late 2025 I filed an access request to the Department of Government Services for internal communications about statute-barred or potentially statute-barred Income Support overpayment debts, debt enforceability and limitation periods, screening or verification of debts prior to collection actions or referral to the Canada Revenue Agency, and issues raised by the Office of the Auditor General regarding older debts. The timeframe was January 1, 2022 to the date of receipt.

What Was Provided and Withheld

Partial access was provided. Information was withheld under Section 29 (policy advice), Section 30 (legal advice), Section 40 (personal privacy), and Section 41 (statutory office). One hundred and twenty-seven pages were redacted entirely under Section 30 solicitor client privilege. The OIPC could not review those records due to the 2023 Court of Appeal decision removing the Commissioner's authority to compel production of solicitor client records.

What I Raised Before the Report Was Issued

Before any report was issued, I raised four specific concerns with the OIPC analyst and made four specific requests. Each concern was documented in writing in my submissions. None was substantively addressed in the report.

Gap 1 — The Relaxed Burden Under Section 9 Requires Specific Engagement With Each Argument

The Legal Framework

Mastropietro v. Newfoundland and Labrador (Education), 2016 NLTD(G) 156, establishes that the onus of demonstrating that the public interest in disclosure outweighs the reason for the exception under Section 9 rests with the party seeking access. However, the court also held at paragraph 47 that this onus cannot be absolute but must be relaxed somewhat in a situation where the applicants have not had the benefit of reviewing the document on which they are required to make submissions as to whether the public interest override should prevail.

Report A-2026-014 acknowledged this relaxed burden. It then concluded in one sentence that the burden had not been met without engaging with any of my four specific documented accountability arguments. A relaxed burden that produces no engagement with the specific evidence a complainant provides is indistinguishable in practice from an absolute burden.

My Four Arguments Word For Word

The following are my four public interest arguments exactly as submitted to the OIPC before the report was issued.

Argument 1 — Auditor General Findings

The Auditor General independently identified in both the 2023 and 2024 financial statement audit reports that income support overpayments represent a systemic problem, noting thousands of cases recommended for write-off that have not been actioned alongside a 55% to 60% uncollectable rate. The public has a right to know whether the Department's internal policy advice engaged with or ignored the Auditor General's findings. This is a matter of institutional accountability not private interest.

Argument 2 — Director of Collections Written Admission

The Director of Collections confirmed in writing that her division operates under the premise that debts are collectible when assigned completely lacking independent verification of legal enforceability. The redacted Section 29 policy advice is directly relevant to understanding why management allowed unverified debt referrals to the Canada Revenue Agency to continue despite this documented systemic gap. Disclosing that advice is necessary for the public to assess whether the public body acted lawfully.

Argument 3 — December 2014 Finance Division Decision Note

The December 2014 Finance Division Decision Note co-authored by the current Collections Manager and the current Comptroller General confirmed that the legal right to recover is lost once the limitation period expires. This proves the Department has known since at least 2014 that it may be pursuing legally unenforceable debts. The redacted policy advice regarding how the Department chose to respond to that specific legal reality is directly relevant to determining whether the public body acted in good faith.

Argument 4 — Fiscal Mismanagement of Public Resources

The empirical record of 7,765 cases recommended for write-off but left stagnant while 55% to 60% of receivables are deemed uncollectable represents a documented failure of fiscal management. The policy advice regarding how those accounts were managed and whether to write them off or continue active collection is a matter of public accountability regarding the administration of public assets.

What the Report Said in Response

The report's complete response to all four of the above arguments was the following single sentence from Report A-2026-014.

While the Public Body must show it considered Section 9, the complainant bears the burden of demonstrating that the public interest outweighs the purpose of the exception, although that burden has been acknowledged by the Court in Mastropietro as a “relaxed” burden. This burden has not been met and the public interest override in Section 9 does not apply.

Not one of the four arguments above was named. Not one piece of evidence was engaged with. The report acknowledged the relaxed burden exists and issued a bare conclusion in the same sentence without explaining why any argument individually or collectively failed to meet even that relaxed standard.

Why This Is a Structural Gap

The Act contains no requirement that the OIPC explain why specific documented public interest arguments raised by a complainant failed to meet the relaxed burden. A bare conclusion satisfies the current statutory requirements. That means a complainant who provides four specific documented accountability arguments grounded in independent evidence including the Auditor General's own findings receives exactly the same outcome as a complainant who provides no evidence at all. The relaxed burden is meaningful only if the OIPC is required to engage with the specific arguments and explain why each fails. Ontario has addressed the same asymmetry by requiring its Commissioner to examine the records directly rather than leaving the applicant to carry a burden they cannot discharge unseen. That comparison is set out under Gap 5.

That standard is not an inference drawn from the brevity of the report. It was stated in writing before the report issued. In correspondence of May 13 2026 the analyst assigned to this complaint set out the test as follows.

When considering the public interest limitation on the exception, the bar is whether is Public Body considered section 9 and in this case they did.

If that is the bar, Section 9 imposes a procedural step and nothing more. A public body satisfies it by turning its mind to the question and recording that it did so. What the analysis contains, which factors were weighed, and whether the complainant's documented arguments were engaged with at all become irrelevant to the outcome. That is not what the provision says. Section 9(1) provides that a discretionary exception shall not apply where it is clearly

demonstrated that the public interest in disclosure outweighs the reason for the exception. That directs a comparison, not a confirmation that a comparison occurred.

The same correspondence confirmed that the Department's initial submissions to this Office contained an analysis of Section 9. What that analysis contains, and when it was created, has never been disclosed to me. It may be a record made at the time the Department applied the exemptions, in which case it is the record GS-077-2026 sought. It may be something prepared later, for the purposes of the complaint. I have no way of knowing which, because I have never seen it, and the disregard of GS-077-2026 removed the route by which I could have asked the Department for it. The uncertainty is not incidental to this gap. It is the gap.

The Ontario standard cited in *Mastropietro* at paragraph 48 states that for the public interest override to apply the information must serve the purpose of informing the citizenry about the activities of their government. Whether a government department acted on or ignored the Auditor General's findings about potentially statute-barred debt collection from vulnerable people is precisely that. The OIPC never applied that standard to any of these specific arguments.

The same passage of *Mastropietro* addresses the objection that an applicant's own stake in a matter defeats a public interest claim. Setting out the Ontario framework, the Court records that a public interest does not exist where the interests being advanced are essentially private, but that where a private interest in disclosure raises issues of more general application, a public interest may be found to exist. That is this case. My own file is the entry point, not the interest. The Auditor General identified thousands of Income Support overpayment accounts recommended for write-off. The Department's own Director of Collections wrote that accounts past the six year limitation period were arriving at Collections routinely, and asked in writing who, if anyone, was checking. Those are issues of general application by any measure.

There is a further contrast worth drawing. In *Mastropietro* the Court dismissed the public interest argument in part because no evidence of public interest was put before it, and observed that an applicant advancing such an argument would be well advised to present evidence. I did present evidence. I submitted four documented arguments grounded in the Auditor General's findings and in the Department's own records, in writing, before the report was issued. The disposition was the same single sentence that an applicant submitting nothing would have received. That is the gap this section identifies. The Act attaches no consequence to the difference between an applicant who submits evidence and one who does not.

The Decision I Was Asked to Make Without the Analysis

The absence of the Department's Section 9 analysis was not only a fairness problem in the abstract. It had a practical consequence at a specific decision point in the complaint.

After the preliminary assessment was issued I was asked whether I would resolve the complaint informally. Section 44(4) makes that the complainant's decision. To make it properly I needed to know what I would be accepting: whether the Department had conducted a documented public interest analysis at all, what factors it had weighed, and whether the assessment I was being asked to accept had engaged with the arguments I had made. I knew none of those things. I had a conclusion and nothing else. I had also identified a specific, verifiable factual error in the secondary search date range and raised it in writing before the

report was issued. It was not addressed at the informal stage, and it was not addressed in the report.

I declined informal resolution for those documented reasons, and I am not asking this Committee to review that decision. I raise it because of what it shows about the Act. An applicant deciding whether to accept an informal resolution is being asked to consent to an outcome whose reasoning has never been disclosed to them. Amendments 3 and 3B would change that. A complainant who has seen the public body's Section 9 analysis can weigh an informal resolution on its merits. A complainant who has not is consenting to something they cannot see.

Proposed Amendment 1 — Mandatory Engagement with Documented Public Interest Arguments

Insertion target: Amend Section 47 (Report of Commissioner). Section 47(2.1) Duty to Address Section 9 Submissions. Where a complainant submits specific documented arguments under Section 9 establishing how disclosure serves the public interest the commissioner's report shall individually address each argument. The report must set out explicit reasons explaining why each argument fails to meet the relaxed burden established in *Mastropietro v. Newfoundland and Labrador (Education)*, 2016 NLTD(G) 156. A generalized finding that the burden was not met shall not satisfy the requirements of this Act where specific documented arguments were submitted.

Gap 2 — The Act Does Not Require the OIPC to Engage With Specific Factual Challenges to Search Adequacy

What Happened

During informal resolution I raised a specific factual concern about the secondary search. My concern was as follows, submitted to the OIPC analyst in writing before the report was issued.

The timeframe chosen appears to correspond to the release date of the most recent Auditor General report and the receipt date of my ATIPP request. However, my request was not limited to the most recent Auditor General report. It asked for records about issues findings or concerns raised by the Auditor General regarding older debts from January 1, 2022 onward. Critically the 2023 Auditor General financial statement audit report released in February 2024 specifically identified income support overpayments as the third largest receivable category at 5.9 million, confirmed that between 55% and 60% of income support receivables are not collectable, identified 7,765 cases recommended for write-off that had not yet been written off, and recommended government review accounts receivable to identify balances for write-off. That report was released in February 2024, not February 2025. The search period of February 26, 2025 to December 13, 2025 excludes an entire year of internal Government Services communications about those specific findings. Any emails within the Collections Division discussing the February 2024 Auditor General findings on income support overpayments during 2024 are the most likely responsive records in the entire request. Those records were never searched.

What the Report Said

Report A-2026-014 stated at paragraph 11 that the Department conducted additional searches using the keywords Auditor and General for the period February 26, 2025 to December 13, 2025 and that this timeframe captures both the release of the Auditor General's Report and the receipt of the Complainant's access request. The report concluded at paragraph 13 that the Department conducted a reasonable search for records.

That conclusion contains a specific factual error. The 2023 Auditor General financial statement audit report which is the report most directly responsive to my request was released in February 2024, not February 2025. The search period began a full year after the release of the most relevant Auditor General report. The entire year of 2024 during which Government Services employees would most likely have been communicating internally about those specific Auditor General findings was never searched. I raised this specific factual point in my submissions before the report was issued. The report did not address it.

Why This Is a Structural Gap

The OIPC's search adequacy standard requires a reasonable search but does not require the OIPC to engage with specific factual challenges to the search methodology raised by the complainant before the report is issued. A complainant who identifies a specific factual error in the search period receives the same outcome as a complainant who raises no challenge at all. The report can accept the search as reasonable without addressing the specific factual concern.

In my case the factual error was verifiable in thirty seconds. The 2023 Auditor General report was publicly released in February 2024. The search started in February 2025. Those are publicly documented dates. A report that accepts a search as reasonable without addressing a specific and verifiable factual challenge to the search period is not providing the independent oversight the Act is supposed to deliver.

Proposed Amendment 2 — Specific Adjudication of Search Adequacy Challenges

Insertion target: Amend Section 47 (Report of Commissioner). Section 47(2.2) Adjudication of Specific Search Challenges. Where a complainant submits a specific verifiable factual challenge regarding the adequacy of a search including challenges to the search timeframe missing repositories or excluded keywords the commissioner's report shall specifically evaluate that factual challenge on the record. The report shall not issue a finding that a search was reasonable without explicitly addressing and resolving the specific factual defects raised by the complainant.

Gap 3 — The Complainant Has No Right to the Public Body's Section 9 Analysis

What Happened

In my submissions before the report was issued I asked the OIPC to provide me with a summary of the Department's Section 9 analysis for Section 29 specifically, including what

public interest factors the Department weighed and why the threshold was found not to be met. The following is my request word for word as submitted to the OIPC.

I also note that your response states the Department provided a section 9 analysis in its initial submissions to this Office and that based on that analysis the threshold was not met. I have never been provided with a summary of that analysis or told what factors the Department weighed or why they were found insufficient. I have received a conclusory statement that the threshold was not met but not the reasoning behind it. I ask this Office to provide me with a summary of the Department's section 9 analysis before the formal report is issued so that I have a meaningful opportunity to respond to it. That opportunity is consistent with the duty to assist and with procedural fairness in the investigation process.

That request was not addressed in the report. Report A-2026-014 issued on May 28 2026. Notice of the report was sent to me by Access and Privacy Analyst Lori Ann Walsh at 11:02 AM that morning. At 1:03 PM I replied with two specific questions I had raised in my submissions and that the report had not addressed: why a summary of the Department's Section 9 analysis was never provided to me, and why the secondary search period was accepted as reasonable when it excluded the year following the release of the most directly relevant Auditor General report. At 1:27 PM, twenty-four minutes later, the Office responded.

This Office considers the investigation closed. No further correspondence will be provided.

The complete exchange is reproduced in Annex B. The report's only statement addressing the Department's Section 9 consideration was the following.

While the Public Body must show it considered section 9, the complainant bears the burden of demonstrating that the public interest outweighs the purpose of the exception, although that burden has been acknowledged by the Court in Mastropietro as a "relaxed" burden. This burden has not been met and the public interest override in section 9 does not apply.

That statement confirms the Department considered Section 9. It does not disclose what factors the Department weighed, what evidence it considered, or why it concluded the threshold was not met. I received a confirmation that the Department thought about Section 9 and decided no. I never received the reasoning behind that decision and had no opportunity to respond to it.

Why This Is a Structural Gap

Mastropietro at paragraph 47 specifically acknowledged that the relaxed burden exists because applicants have not had the benefit of reviewing the document on which they are required to make submissions. The same principle applies to the public body's Section 9 reasoning. A complainant who does not know what factors the public body weighed cannot meaningfully respond to that reasoning. The OIPC assesses the public body's Section 9 analysis against the complainant's arguments without the complainant ever knowing what that analysis said.

This creates a one-sided process. The public body provides full reasoning to the OIPC. The complainant provides arguments to the OIPC. The OIPC compares them. The complainant receives only the outcome. In my case the Department's Section 9 analysis existed in the OIPC file. I never saw it. I was assessed against reasoning I was never shown. That is not the procedural fairness the Act is supposed to provide.

The core problem is this. I participated in a process where the Department provided the Office with its full reasoning and I was given only the conclusion. The Office then assessed my arguments against the Department's reasoning without ever disclosing that reasoning to me. It is the equivalent of a referee hearing one side fully and then telling the other side simply to trust that the first side had a good argument, without showing what that argument is, and then asking that side to accept the outcome. That is not a fair process in any context, formal or informal. ATIPPA, 2015 should not permit it in the Section 9 process.

What Happened When I Tried to Obtain the Section 9 Analysis Through ATIPPA

After the report issued and the investigation closed without the Section 9 analysis ever being disclosed to me, I turned to Part II of the Act. I made two requests. The first was refused, the second was drafted to meet the reason given for that refusal, and it is the second that was disregarded.

On June 3 2026 I filed access request GS-065-2026 with Government Services. It sought the submissions, representations and correspondence the Department had sent to the OIPC in connection with the complaint, including its Section 9 analysis as submitted to that Office, over a timeframe running from January 1 2025 to the date of the request. On July 2 2026 the Department refused it in full — 330 pages — under Section 41(c), a mandatory exception, stating that the records related to the Department's response to a complaint and were directly connected to the OIPC's investigatory functions. That letter is reproduced at Annex F.

I did not complain about that refusal and I did not appeal it. The Department's stated reason identified the difficulty precisely: the records I had asked for were tied to the OIPC's investigation. So I removed that difficulty and asked again for less.

On July 3 2026 the Department of Government Services received access request GS-077-2026, seeking the Section 9 analysis the Department conducted during the processing of GS-124-2025 and any related internal communications about it. The timeframe I specified was December 15 2025 to February 24 2026, precisely the period during which GS-124-2025 was processed and ending on the day the OIPC complaint was filed. The request stated on its face that I was not seeking OIPC records:

For greater certainty, I am not requesting records held by the OIPC, nor am I requesting records created in response to the OIPC complaint process; I am requesting only records held by the Department in its own files relating to its own initial statutory obligations in processing GS-124-2025.

Every element of that request answered the reason I had been given the day before. GS-065-2026 had asked for what the Department sent to the OIPC. GS-077-2026 asked only for what the Department created in its own files, in the period before the OIPC was involved. Section 41(c) could not attach to those records, because a record created before a complaint exists cannot be connected with the investigatory functions of the office that later investigates it. That is what the change of timeframe was for, and it is why the request said on its face that OIPC records were not sought. No exemption of any kind has ever been identified for the record as sought in GS-077-2026. The full request and all correspondence with the Department are reproduced in Annex C.

What followed is set out in full below. In summary form it is this.

Date	Event
June 3, 2026	Government Services receives access request GS-065-2026, seeking the Department's submissions to the OIPC.
July 2, 2026	GS-065-2026 refused in full, 330 pages, under Section 41(c) as connected with the OIPC's investigatory functions. Not complained of, not appealed.
July 3, 2026	Government Services receives access request GS-077-2026, narrowed to one record created before the complaint was filed.
July 10, 2026	Five business day window under Section 21(1) to apply for a disregard closes.
July 15, 2026	Outer limit of the three business day decision period under Section 21(2).
July 17, 2026, 8:13 AM	ATIPP Coordinator Vincent Au sends a Section 15 advisory response: the request is being processed, final response by July 31.
July 21, 2026, 5:09 PM	Senior Coordinator Andrea Lawlor sends the final response — disregard approved by the Commissioner, Form 4E.
July 21, 2026, 5:10 PM	Ms. Lawlor retracts the July 17 advisory response: sent in error, the coordinator "was unaware of the circumstances."
July 21, 2026, 10:01 PM	I write to Commissioner Hatfield asking what made the request unduly repetitive and how the sequence is consistent with a valid disregard.
July 24, 2026, 1:37 PM	The Commissioner replies: the Office does not comment on reasons for disregard decisions; all statutory timelines were met; the Act sets no deadline for notifying the applicant.
July 25, 2026, 8:55 AM	I reply and ask two direct questions for this Committee: which exemption withholds the record, and whether a journalist would face the same disregard.
August 4, 2026, 1:53 PM	I follow up; the two questions remain unanswered.
August 11, 2026, 1:29 PM	The Commissioner responds: the request was an attempt to re-litigate, an abuse of the right of access under 21(1)(c); no further

Date	Event
August 11, 2026, 4:23 PM	correspondence. Neither question answered. I reply for the record only.

On July 17 2026 at 8:13 AM, ATIPP Coordinator Vincent Au sent me a formal advisory response under Section 15 of the Act stating that my request was being processed and that a final response would be provided by July 31 2026.

Four days later, on July 21 2026 at 5:09 PM, Senior Access to Information Coordinator Andrea Lawlor sent the final response on Form 4E, "Response to Applicant — Disregard with approval from OIPC." The stated ground was as follows.

Given your history of similar requests, the OIPC has found that the current request repeats issues that have already been formally reviewed by their Office and addressed by the Department.

At 5:10 PM, one minute later, Ms. Lawlor sent a second email.

Good evening, Please accept my apologies for any confusion caused by the previous email. Kindly disregard that correspondence, as it was sent in error. My coordinator was unaware of the circumstances and was following the applicable legislative timelines. Thank you for your understanding.

The correspondence being retracted was the July 17 advisory response. The Department's own senior coordinator confirmed in writing that the coordinator actively processing my request, and communicating with me under Section 15, did not know a disregard application had been made. He told me my request was being processed toward a July 31 final response because, so far as he knew, it was.

I asked the Commissioner how that sequence could be consistent with a valid and timely disregard application. On July 24 2026 she replied.

With regards to the timelines related to the disregard application I can confirm that all statutory timelines were met by both the public body and this Office with respect to the filing of the disregard application and the response thereto. The Act does not provide a specific timeline for public bodies to provide the notice of disregard to an applicant. It is unfortunate that the public body was not more timely in providing you with the notice of disregard, and a faster turnaround may have removed some of the confusion and frustration that now exists. The issue of the public body advising you that they were processing your request and then applying for a disregard is not anything this office can explain. We are not involved in the internal processes of each public body.

I accept that answer and I am not asking this Committee to find otherwise. I place it before the Committee because of what it reveals about the Act rather than about this file. Three legislative gaps follow directly from that paragraph. First, the Act sets no deadline for telling the applicant. Every other step is on a clock. Section 21(1) gives the public body five business days from receipt to apply. Section 21(2) requires the Commissioner to decide without delay and in any event not later than three business days after receiving the application. The Office's own guidance describes the whole process as an eight business day period. On my file that envelope closed on

July 15. The notice reached me on July 21, and the section 15 advisory response telling me my request was being processed reached me on July 17 — after the point by which, on the Commissioner's confirmation that all statutory timelines were met, the disregard must already have been approved. The Act times every step except the one that involves the applicant. Second, the applicant cannot verify compliance. I have never been told the date the disregard application was filed or the date it was approved, and neither the notice nor any subsequent correspondence discloses either date. A deadline that only the two institutions bound by it can see is not an accountability mechanism. Third, no one explains the decision. The Commissioner's position, stated in the same email, is that this Office does not comment on the reasons behind its disregard decisions beyond what the public body provides in its notice. The public body's notice supplied one sentence. The office that gave the reason will not explain it, and the office that approved it will not go beyond the reason given.

That refusal is not confined to this file or to this decision-maker. On April 29 2026, responding to my questions about an earlier disregard of two requests to Treasury Board Secretariat, the Director of Research and Quality Assurance wrote: *"Unfortunately we will not be able to provide additional details in response to your questions."* Three months later the Commissioner wrote that this Office does not comment on the reasons behind its disregard decisions. Two officials, two files, the same position. What is described as a discretionary reticence in any single case is, across cases, a settled practice, and it is the reason Amendment 3D requires the Commissioner to give written reasons.

The same April 29 email is relevant for two further reasons, and I reproduce it in full at Annex E. First, the Office described what it understood to be the ordinary course after a disregard: that a person whose request has been disregarded will often go back to the public body with a revised request, and that even when it approves an application to disregard, it will often encourage the public body to invite the requester to file a new, revised request. No such invitation appears anywhere in the notice I received for GS-077-2026. Second, the Office advised me that filing a new access request should result in a much more timely outcome than court. GS-077-2026 was a single, narrowly drawn request for one document, filed in that spirit. It was disregarded.

There is one further defect in the notice itself that I ask the Committee to look at, because it is a problem with a standard government form rather than with this file. The Form 4E notice told me I could ask the Information and Privacy Commissioner to review the processing of my access request under Section 42, within fifteen business days. Reproduced inside the same letter, four pages later, is Section 42(8)(a), which states that a complaint shall not be filed with respect to a request that is disregarded under Section 21. The letter offers a remedy that the statute printed within it forecloses. A citizen who followed the first page would file a complaint that cannot be filed and would consume the fifteen business days available for the only route that does exist, a direct appeal to the Trial Division under Section 52. That matters here because the Commissioner twice faulted me for not appealing.

What Happened When I Challenged the Disregard

On July 21 2026 I wrote to Commissioner Hatfield asking what made GS-077-2026 unduly repetitive or systematic and how the July 17 advisory response could be consistent with a valid disregard application. Her July 24 response, reproduced in full in Annex A, opened as follows.

I understand your frustrations with the ATIPP process and with this disregard in particular. However, this Office does not comment on the reasons behind our disregard decisions outside of what is provided by the public body to an applicant in their notice of disregard. As per the notice of disregard provided to you by the public body on July 21st, the disregard was granted on the basis that the request sought records relating to issues that had already been formally reviewed by this Office and was therefore unduly repetitive or systematic.

Her response did not identify any provision of ATIPPA, 2015 under which the Section 9 analysis is exempt from disclosure. That absence is significant. If a substantive exemption existed it could have been named. Instead she pointed to a disregard ground, which addresses whether a request will be processed, not whether the record is exempt.

On July 25 2026 I replied and made two points. On the penalty for having complained:

If I had never filed a complaint, there would be no report to point to and no basis to claim my request was repetitive. I would simply have been entitled to request the Section 9 analysis directly. By engaging the statutory complaint process, I have ended up with fewer access rights than if I had never complained at all. I am effectively being penalised for using the oversight mechanism this Act provides.

On who can still obtain the record:

Applying Section 21 here creates an absurd result: a record that remains disclosable on its merits to the general public is barred uniquely to the individual who exercised their statutory right to file a complaint. If a third party or a private law firm were to submit an access request for this exact Section 9 analysis today, your Office could not approve a disregard under Section 21(1)(c)(ii) because that applicant would have no prior request history. Furthermore, because a Section 21 disregard attaches strictly to my personal request history, members of the Statutory Review Committee — or any other interested party reviewing my submission — remain fully entitled to submit an access request for this exact record themselves, as it remains a disclosable public document to everyone except the applicant who filed the original complaint.

I formally invite Keri-Lynn Power and members of this review committee to test this statutory gap directly by submitting an access request to Government Services for the Section 9 analysis created during the processing of GS-124-2025. Because the ground used against me attaches strictly to my personal request history, it cannot apply to a third party applicant with no such history. If Government Services produces the record, that proves the record is disclosable on its merits and confirms the disregard achieved an outcome the Act's exemption provisions do not authorise. If Government Services withholds it, the committee will experience the structural gap this submission documents at first hand. Either outcome advances the statutory review.

I closed the July 25 email with two direct questions asked expressly for this committee's benefit.

- 1. Could you please identify the specific statutory exemption provision under which the Section 9 analysis conducted by Government Services for GS-124-2025 is legally withheld from the original applicant?*
- 2. If someone else submitted a request similar to GS-077-2026 — say a journalist, a private law firm, or a curious citizen wanting to see the Department's Section 9 analysis — would*

the OIPC still rule that their request is “unduly repetitive” on the grounds that the matter was already formally reviewed by this Office?

Receiving no reply, I wrote again on August 4 2026 noting that my submissions to this review were nearly complete and that the answers, or the absence of them, would be directly relevant to what the committee reads.

The Commissioner’s Final Response and What It Confirms

On August 11 2026 Commissioner Hatfield responded as follows.

You filed a complaint with this Office that resulted in our Report A-2026-014. Clearly you were not satisfied with the outcome. As you know, there was a statutory right to appeal following issuance of the public body’s response to that report, which you did not avail of. Your subsequent request, which was disregarded with approval by this Office, was, in my view, an attempt to conduct your own investigation/litigation of the outcome, rather than using the appeal process provided by the Act. Your subsequent request attempts to continue to pursue the outcome that you would prefer to see by attempting to re-litigate it on your own terms. In that sense it is both repetitive and systematic. This is an abuse of the right of access in accordance with 21(1)(c). You also had the option to appeal the Department’s decision to disregard your request, which you did not avail of.

If you receive a judicial decision, you do not get to continue to argue the matter before the same judge. You must file an appeal to the next level of court. The complaint process at the Office of the Information and Privacy Commissioner is a quasi-judicial process. While I am happy to, and have tried to, explain our processes to you, my office does not have unlimited resources to continue to debate the outcome of a matter that you are not happy about but have chosen not to appeal.

I do not intend to reply to any further correspondence from you on this matter.

Neither question was answered. No statutory exemption provision was identified. Whether a journalist or law firm requesting the same record today would face the same disregard was not addressed. The correspondence was closed instead.

I note one point about the judicial analogy, and I raise it as a structural observation rather than a criticism of any individual. Report A-2026-014 records at paragraph 3 that Commissioner Hatfield delegated authority for the matter to the Director of Research and Quality Assurance under Section 103 of the Act. The report was written and signed by the Director. The response to me relies on the finality of that report as though it were a judicial decision, while the Act permitted the decision to be delegated and provides no internal review of it. The analogy borrows the finality of a court decision without the accompanying safeguards: no reasons on the disputed points, no internal review, and a single appeal route costing thousands of dollars.

On August 11 2026 I replied for the record only. The full text appears in Annex A. The operative passage is this.

GS-077-2026 was an access request filed with Government Services under Section 8(1) of ATIPPA, 2015. It asked for the record Government Services created during its statutory obligation to conduct a Section 9 public interest analysis before applying a discretionary

exemption to access request GS-124-2025, along with related internal communications between the department and its ATIPP coordinators regarding that analysis. That record was created by Government Services, not by this Office, and it was created before any complaint was filed. I was never provided with it at any stage of the complaint process. I was not asking this Office to change its report, nor was I filing another complaint.

Why That Characterisation Is a Fundamental Legal Error

The stated reason shifted when it was challenged, and the shift is documented in the correspondence. The disregard notice gave an objective reason: the request repeated issues already formally reviewed. The Commissioner's July 24 response repeated that reason and identified Report A-2026-014 as the formal review. When I put to her that the record itself had never been requested by anyone, the reason changed. Her August 11 response no longer rested on repetition of records but on her assessment of my purpose, an attempt to conduct my own investigation or litigation and to re-litigate the matter on my own terms.

In her May 29 2026 interview with *The Independent*, explaining to the public how to use the Act, the Commissioner advised that an applicant who did not get what they were looking for can always go back and make another request. That interview is not incidental to this submission. This Office promoted it to the public in its own quarterly newsletter, *Above Board*, Volume 18, Issue 3, July 2026, encouraging readers to listen to the conversation and to hear the Commissioner's perspectives firsthand. The same issue announced this statutory review and stated that the Office encourages all interested parties to engage in the review process and have their voices heard. That is what GS-077-2026 was. I had never received the Section 9 analysis, so I asked for it directly, once, from the public body that created it. The guidance given publicly and the disregard approved in my file point in opposite directions, and an applicant following the Commissioner's own advice has no way of knowing which one governs.

Section 21(1)(c) permits disregarding a request that is objectively unduly repetitive or systematic. It does not permit disregarding a request because the Commissioner infers an improper motive. That a stated reason shifts under challenge is not by itself what should concern the committee. What should concern the committee is that nothing in the Act prevented it. There are no written reasons required for a disregard approval, no internal review, and no obligation on the approving Office to explain itself. Where there is no fixed boundary, the boundary becomes whatever justification best supports the outcome already reached.

The question of what an applicant intends to do with a record is separate from whether the applicant may have it. Section 8(1) gives citizens the right to access records. It does not require citizens to justify their intentions and it does not permit an assessment of whether a citizen's purpose meets institutional approval before a request may proceed. Blocking access in advance based on an assumed intention is pre-emptive, not administrative. Even if the Commissioner genuinely believed my purpose was to challenge Report A-2026-014, the proportionate institutional response was to process the request and, if I later tried to reopen the complaint, decline to reopen it. The file is closed. That is a complete answer to any subsequent challenge. Blocking the record itself on the basis of assumed intent is a different and more aggressive step, and it uses a procedural tool to achieve a result no substantive exemption was ever shown to authorise.

No provision of Division 2 of Part II exempts a record on the ground that the applicant's purpose is one the Commissioner considers inappropriate. The Act required the question whether the record is exempt. It is not. Seeking to establish whether a department conducted a proper Section 9 public interest analysis before withholding records about institutional conduct affecting thousands of people is not an abuse of process. It is the purpose stated in Section 3(1)(a), which is to ensure citizens have the information required to participate meaningfully in the democratic process.

The vocabulary of the final response reveals the source of the error. Quasi-judicial process. Not arguing before the same judge. An appeal not availed of. Those are litigation concepts, and they assume a dispute heard once, decided and closed unless appealed upward. Part II of ATIPPA, 2015 is not built that way. Section 8(1) does not create a case; it creates a standing right held continuously by every citizen, independent of anything they have previously filed or declined to file. A citizen can request records today, complain tomorrow, lose that complaint next month, and still exercise the same right of access the following week. There is no exhaustion doctrine in Part II because the legislature never put one there.

If that reasoning were allowed to stand the Act would acquire, by administrative interpretation rather than by legislation, an invisible boundary that no one voted for and no one can locate. Nothing says how long the bar lasts. Nothing says how closely a later request must relate to an earlier complaint to be caught by it. Nothing says what a citizen must do to restore full access rights after an unfavourable outcome. Those questions have no answers because the mechanism does not exist in the statute.

The Duty to Assist Applies, and Cannot Be Enforced

Section 13(1) requires the head of a public body to make every reasonable effort to assist an applicant in making a request, and to respond without delay in an open, accurate and complete manner. That duty applied to the handling of GS-077-2026 as it applies to every request.

On July 17 2026 I was told in a formal response under Section 15 that my request was being processed and that a final response would be provided by July 31. That statement was not accurate. The Department itself said so four days later, retracting the letter one minute after issuing the disregard and explaining that the coordinator "was unaware of the circumstances."

I make no criticism of the coordinator, who could not have written anything else on what he knew. The difficulty is what follows. Section 42(8)(a) provides that a complaint shall not be filed with respect to a request that is disregarded under Section 21. That provision is drafted to prevent an applicant from using the complaint process to attack the disregard itself, which is understandable. Its effect, however, is wider. It forecloses any complaint about the request, including a complaint that the public body failed in its duty to assist during the period before the disregard was approved.

So the duty in Section 13 applied throughout, and the only forum in which a breach of it could be raised is the Supreme Court Trial Division. For an applicant in my position that is not a remedy. A statutory duty that cannot be raised in any forum an ordinary applicant can reach is not, in practical terms, a duty at all.

That consequence is not theoretical, and it is recorded in this file. I put the sequence to the Commissioner directly, setting out four dates — the request received July 3, the five day window closing July 10, the Section 15 advisory response of July 17 promising a final response by July 31, and the disregard notice of July 21 — and asked how those things could be consistent with one another. Her answer included the following.

The issue of the public body advising you that they were processing your request and then applying for a disregard is not anything this office can explain. We are not involved in the internal processes of each public body.

I accept that statement as accurate in its own terms. This Office does not manage the internal workflow of a government department, and it should not be expected to.

But the mechanism by which this Office does examine a public body's conduct toward an applicant is a complaint under Section 42, followed by an investigation under Section 44. That is how the duty to assist is assessed in every other file. It is how it was assessed in Report A-2026-014 itself, where this Office examined the adequacy of the Department's search, asked the Department to conduct a further search, and set out its findings at paragraphs 8 to 13.

The reason that mechanism was unavailable to me here is Section 42(8)(a). The reason Section 42(8)(a) applied is that the request had been disregarded, with the approval of this Office.

The effect, which I do not suggest anyone intended, is a closed loop. The applicant is told that the public body's conduct is not something the Office can explain. The route by which the Office could have examined that conduct was closed by the approval of the decision that closed it. Nothing in the Act requires anyone to notice that this has occurred, and nothing permits the applicant to do anything about it. Subsection 42(8.1), proposed under Amendment 3D, would reopen that route without disturbing the disregard itself.

Section 21(6) of the Act sets out what a notice of disregard must contain: that the request is refused and the reasons for the refusal, that the Commissioner approved the decision, and that the applicant may appeal to the Trial Division under subsection 52(1). The Office's own guidance restates this, noting that the contents of the notice are set out in Section 21(6) and include information about the right of appeal to the Trial Division. A Section 42 complaint route appears in neither. It appears in the Form 4E, first and most prominently, and the Act forbids it.

The outcome is this. I asked the OIPC during the complaint to provide me with the Department's Section 9 analysis. I was refused. I asked again after the report and was told the investigation was closed. I then filed a direct ATIPP request to the Department for the same document, specifically noting it was a Government Services record created before the complaint was filed. That request was disregarded with OIPC approval on the grounds that it repeated issues already reviewed. The OIPC is simultaneously the institution that declined to disclose the document during the complaint and the institution that approved the disregard of the direct request for it. The only remaining route is the Trial Division at a cost of thousands of dollars. On April 29 2026, in correspondence concerning a separate disregard, the OIPC's Director of Research and Quality Assurance told me in writing that based on his Office's experience of matters in court, getting a court date before 2027 could be difficult, and that filing a new access request should result in a much more timely outcome. That email is reproduced in Annex E. That is what Gap 3 looks like for a citizen trying to navigate it in practice.

How the Same Decision Is Made in Other Provinces

The disregard process in this province is decided on the papers of one party. The public body applies. The commissioner decides. The applicant is not told an application has been made, is not given a copy of it, makes no submissions, and learns of the outcome only if and when the public body chooses to send a notice.

That is not the only way the same decision can be made, and two provinces demonstrate it.

British Columbia. A public body applies to the commissioner under section 43 of that province's Act for authorization to disregard requests. The person who made the requests is a named party to the proceeding and is referred to as the respondent. Both sides file written submissions and evidence; in one 2025 matter the public body and the applicant each filed ten-page supplemental submissions. Respondents request permission to file further reply and receive it. In another 2025 matter the respondent objected that they had not been given an opportunity to review and respond to an affidavit, a complaint that is only intelligible in a process where responding is a right. The burden of proof rests on the public body. Decisions issue as numbered, published orders with reasons. And the relief is tailored rather than binary: in a 2026 order the adjudicator authorised the public body to disregard part of a request and ordered it to respond to the remainder, and the British Columbia Supreme Court has said it is more appropriate to authorise disregarding future requests in specified circumstances, such as requiring the public body to deal with one request at a time.

That Office has also stated the governing principle. Section 43 is a remedial tool used to curb abuse of the right of access; it is not punitive in nature; and applications require careful consideration because granting the relief curtails or eliminates rights of access granted by the Legislature.

Ontario. The structure is different and the outcome for the applicant is similar. An institution may itself decide that a request is frivolous or vexatious and issue a decision letter saying so. The requester may then appeal that determination to the Information and Privacy Commissioner. On that appeal the institution is required to present evidence that the request is frivolous or vexatious, and the Commissioner determines whether the institution's decision is reasonable. The appeal proceeds through mediation and, if unresolved, adjudication, where an adjudicator receives representations from the parties and issues a binding order. That Office's published guidance tells requesters directly that they should be prepared to respond to claims made about their conduct and to explain how their request is not frivolous or vexatious.

Newfoundland and Labrador. The applicant is told nothing before the decision and has no route to challenge it afterwards except the Supreme Court. This Office's own published guidance illustrates how far outside the process the applicant sits. It states that in its decision-making process the Office reserves the right to contact the applicant and discuss the request if necessary, and that under such circumstances it may need to obtain the name and contact information of the applicant. The applicant is not merely unheard. The decision-maker may not know who they are.

I do not suggest that this province should adopt another jurisdiction's model wholesale. British Columbia's process takes months, and there is a legitimate interest in a disregard being decided quickly. But the choice is not between speed and fairness. Ontario's institutions decide quickly

and the applicant is heard afterwards. British Columbia's applicants are heard first and the decision takes longer. Newfoundland and Labrador has chosen speed and has provided neither. A citizen who makes the same request in Vancouver is a party to the proceeding that extinguishes it. A citizen who makes it in Toronto can compel the institution to prove its case, free of charge, before an adjudicator. A citizen who makes it here is told after the fact, in a letter, and directed to the Supreme Court.

What That Difference Means in Plain Terms

I want to put this plainly, because the comparison is not an abstract one for me.

Had I made the same request in Vancouver, I would have been a party to the proceeding that took my right to it away. I would have received the public body's application. I would have been able to say why it was wrong. Someone would have had to read what I wrote before deciding. Had I made it in Toronto, I could have required the institution to prove its case to an adjudicator, and that Office's published guidance would have told me directly to be ready to answer what was said about my conduct.

I made it in Newfoundland and Labrador. I was told nothing until it was over. I was never asked for my side. The only place I can give it is a court I cannot afford.

There is one sentence in the Commissioner's response that describes this process better than anything I could write. I had asked how the Department could tell me on July 17 that my request was being processed and then disregard it on July 21. She answered:

The issue of the public body advising you that they were processing your request and then applying for a disregard is not anything this office can explain. We are not involved in the internal processes of each public body.

I do not read that as evasion, and I do not raise it to criticise. I read it as accurate, and as a description of how the process is built. This Office could not explain the sequence because this Office never saw it. It saw an application from a public body and nothing else.

It could not have seen the advisory response of July 17. On the Commissioner's own confirmation that all statutory timelines were met, the application was made on or before July 10, and the advisory response did not exist until a week later. This Office's published guidance lists a copy of the Section 15 advisory response among the material that would assist it in deciding an application, if that letter has been sent. When my application was decided, it had not been sent.

The one document that reveals the inconsistency was therefore in my hands and nowhere else, and the process gave me no way to put it in front of the person deciding. In a process where the applicant receives a copy of the application and has five business days to reply, that document is before the decision-maker before the decision is made, and the question the Commissioner could not answer never arises. It is not that this Office declined to explain what happened. It is that the process gave it no means of finding out, and gave the only person who knew no means of telling it.

I can anticipate one answer to this and I want to meet it. British Columbia and Ontario have larger offices and larger budgets, and it may be said that this province cannot run the process those provinces run. I accept the premise. I do not accept what is drawn from it.

What I am asking for is not an adjudication. It is a copy of the application and five business days to reply to it. Sending an applicant a copy of a document that has already been written costs one email. Reading a page or two before making a decision costs minutes. The expense in British Columbia lies in the hearing, and I am not asking for a hearing. Ontario's institutions decide quickly and at no cost to the oversight office at all; the cost arises only if the applicant appeals, and only in the cases where someone cared enough to.

A citizen's right to know what is being said about them, and to answer it before it is acted upon, should not depend on which province they happen to live in or on the size of the office deciding. If the resources are not there for a full process, that is an argument for a smaller process. It is not an argument for no process at all.

The Access Right Is Purpose Blind and Not Contingent on Appealing

The Commissioner's position is that because I had a right to appeal the report and did not use it, my subsequent access request was an improper attempt to achieve through ATIPPA what I should have sought on appeal. That creates an unwritten rule found nowhere in the Act.

Section 8(1) does not require citizens to state a reason for wanting records. It does not require citizens to have exhausted appeal remedies first. It does not condition the access right on having appealed an OIPC report. I could have wanted the Section 9 analysis to give to a journalist. I could have wanted it for this submission. I could have wanted it simply to learn whether an analysis was conducted at all. I could have wanted it for no reason whatsoever. Under Section 8(1) I am entitled to it in all of those cases unless a specific exemption applies. No exemption was ever identified for the record as sought in GS-077-2026.

Furthermore, the Commissioner states that I chose not to appeal. For a senior on a fixed income, a Trial Division appeal costing thousands of dollars and taking months or years is not a choice in any meaningful sense. It is a financial barrier. Under that reasoning, citizens who cannot afford court lose not only their appeal remedy but their ongoing access rights as well. The citizens most in need of the OIPC as an accessible alternative to court are the citizens most harmed by a framework that treats not appealing as forfeiture.

Three statutory rights exist independently in ATIPPA, 2015: the right to access records under Section 8(1), the right to file a complaint under Section 42, and the right to appeal under Section 52. Exercising one should not affect the others. Not exercising one should not forfeit the others. The position taken in my file collapses all three into a single pathway in which filing a complaint and not appealing leaves a citizen with fewer access rights than a citizen who never engaged the system at all.

Section 21 as a Pre-Emptive Shield Against Citizen Oversight

Section 21 was designed as a narrow, exceptional remedy protecting public bodies from objectively abusive requests. It was not designed as a pre-emptive shield allowing an assumption about what a citizen might do with a record to determine whether the citizen may

have it. Applied as it was here, it operates not as a filter for abusive requests but against legitimate ones. It blocked access to a Government Services administrative record that any other citizen in this province could request and receive today. The record as sought in GS-077-2026 is not exempt under any provision of Division 2 of Part II. No exemption has ever been identified for it. It is disclosable on its merits to the general public and blocked only to me, because I complained about the request that generated it.

ATIPPA, 2015 is applicant blind. Whether a record is disclosable should depend on what the record contains, not on who is asking. Section 21 as applied here produced a personal prohibition on a public record, which is the opposite of what the Act was designed to do.

The OIPC Cannot Use Its Own Reports To Shield Evidence From Public Scrutiny

The effect of the disregard, whatever was intended by it, is that the Section 9 analysis cannot now be examined by anyone outside Government Services. It is worth setting out what that means on each of the possible states of affairs. If the analysis was superficial, the disregard shields that from scrutiny. If no documented analysis was made at the time, the disregard shields that absence from scrutiny. If the analysis was thorough and well reasoned, the disregard was unnecessary. On every version of the facts, the only party placed in a better position by blocking access to a department's own Section 9 analysis is the department that conducted it.

This Committee is affected too. It is conducting a statutory review of ATIPPA, 2015 without primary source evidence of how departments actually perform Section 9 analyses during live access requests. GS-077-2026 was filed to supply exactly that evidence. The disregard shielded from this review the records that would have shown whether the current framework operates as the Legislature intended.

Section 3(1)(b) of ATIPPA, 2015 states that the purpose of the Act is to facilitate democracy through increasing transparency in government and public bodies so that elected officials, officers and employees of public bodies remain accountable. The Information and Privacy Commissioner is an officer of the House of Assembly. Section 3(1)(b) therefore applies to the Commissioner as much as to any public body she oversees. Commissioner Hatfield stated publicly in her May 29 2026 interview with *The Independent* that transparency should be the norm, and that "If you want to not give information to the public, you better have a darn good reason." Those two statements point in the same direction. (Kerry Hatfield, interviewed by Justin Brake, "Access to Information Under Attack," berrygrounds podcast, *The Independent*, May 29 2026.)

What happened in my file points the other way. The OIPC issued Report A-2026-014 about redactions in GS-124-2025. That report relied on a Section 9 analysis conducted by Government Services and concluded the Department had addressed Section 9. I then filed GS-077-2026 seeking the analysis itself, limiting the request to the period before the complaint was filed so the records would predate the investigation. The OIPC approved a disregard of that request on the ground that it repeats issues already formally reviewed by that Office, citing Report A-2026-014 as the formal review.

The consequence is this. The report is the conclusion. The Section 9 analysis is the evidence behind the conclusion. The conclusion was used to block access to its own evidence. Citizens,

including this committee, cannot independently verify the conclusion because the Office used its own report to prevent access to the underlying record.

The Office's own published guidance, *Applying to the Commissioner for Approval to Disregard an Access to Information Request* (OIPC, June 2015, revised August 31 2017), defines the ground precisely. It states that a request is repetitive when a request for the same records or information is submitted more than once, that "systematic" involves a pattern of conduct that is regular or deliberate, and that access legislation was not intended to allow an applicant to resubmit the same or similar access requests to a public body simply because of dissatisfaction with a response.

GS-077-2026 satisfies none of that, and the Department's own files show why. There were two requests, not one request submitted more than once, and they were not requests for the same records. GS-065-2026 sought the Department's submissions to the OIPC across a fourteen month period. GS-077-2026 sought a single record created by the Department in its own files during a ten week period ending on the day the complaint was filed. The second was not a resubmission of the first. It was a narrower request drafted to comply with the reason the first had been refused. Two requests three weeks apart, the second responding to the stated ground for refusing the first, are not a pattern of conduct that is regular or deliberate. I was not resubmitting because I was dissatisfied with an answer. I accepted the answer and worked within it.

If the contrary position is correct, its consequence should be stated plainly: an applicant refused under Section 41(c) who then narrows a request so that Section 41(c) cannot apply is thereby acting repetitively and systematically. On that view no applicant in this province can safely revise a refused request, and the conduct being penalised is precisely the conduct that the Commissioner's published guidance, her own public advice, and this Office's Director of Research and Quality Assurance each recommend.

I should be precise about one sentence I wrote to the Commissioner on July 21, since it appears in Annex A. I said I did not understand how requesting the record for the first time could be characterised as repeating something already addressed. The sentence immediately preceding it identifies what I was describing: the analysis as a specific document created by the Department during its own statutory decision-making process. No request before GS-077-2026 sought that record. GS-065-2026 sought what the Department had sent to the OIPC, which is a different record set, and it was refused on precisely that basis.

The notice of disregard opens with the words "Given your history of similar requests." That phrase is never explained, and nothing in the Act required it to be. The only similar request in my file is GS-065-2026, which was refused under a mandatory exception and which I neither complained of nor appealed. No abuse of the right of access was found in respect of it, and none was alleged.

There is a further point the Committee may find more telling than any of the above. If repetition were the operative ground, GS-065-2026 was the obvious thing to cite. It appears nowhere — not in the notice of disregard, not in the Commissioner's response of July 24, and not in the Commissioner's response of August 11. What each of those cites instead is the complaint and Report A-2026-014. The stated ground has never been that I asked twice for records. It has been that I complained.

That absence raises a question about the Act rather than about my file. The Office's guidance states that a public body seeking a disregard must establish on reasonable grounds that one of the tests is met, and lists among the information that would assist the Commissioner the history, nature and number of previous interactions with the applicant. A repetition ground cannot be assessed without knowing what was requested before. So either GS-065-2026 was before the Commissioner when she approved this disregard, or it was not.

If it was, then the only document in my file capable of supporting a repetition finding was in front of the approving authority, and it appears in none of the three explanations I was given. The notice of disregard, the Commissioner's response of July 24 and the Commissioner's response of August 11 each locate the ground in the complaint and the report instead.

If it was not, then a request was extinguished as unduly repetitive without the approving authority having seen the only earlier request in the file.

I do not know which of those occurred, and I am not inviting the Committee to decide. The point is that nothing in ATIPPA, 2015 allows an applicant to find out. Section 21(6) requires the public body's notice to state the reasons for the refusal, but Section 21(2) requires only that the Commissioner decide to approve or disapprove within three business days. The Act requires no reasons from the Commissioner for an approval, no disclosure of what the public body submitted in support of it, and no notice to the applicant that an application has been made at all. A citizen in my position cannot distinguish a decision made on a complete record from one made on an incomplete record. Neither can this Committee. Amendment 3D is directed at precisely that.

The same guidance sets the standard the Office applies to itself when deciding these applications. It records that Commissioners in Canadian jurisdictions with comparable provisions are reluctant to support a decision to disregard unless the evidence is clear and convincing, and it states twice that because approving a disregard essentially eliminates an applicant's right of access, any doubt will be resolved by the Commissioner in favour of the applicant. On the facts of GS-077-2026 the published definition is not met, and the guidance directs that doubt be resolved the other way.

No public body could use its own internal reports to block access to the records those reports were based on. Yet that is the practical outcome Section 21 produced in my file. The 2026 statutory review is asked to consider whether that outcome is consistent with Section 3(1)(b) and, if not, what legislative amendment would prevent it recurring.

What This Means in Plain Terms

Setting the statutory argument aside, this is what the Commissioner's position asks of me in practice.

During the complaint I asked to see the Section 9 analysis. I was refused. After the complaint I filed a direct access request for the same document. It was disregarded. The Commissioner told me I should have appealed the report instead. Then she told me I should have appealed the disregard as well.

Both of those are Trial Division applications. Both cost thousands of dollars. Both take months.

And I do not know whether the record I am being sent to court for exists. This Office has confirmed that the Department's submissions to it during the complaint contained an analysis of Section 9, but that is a different record, prepared for the complaint, and it is not what GS-077-2026 sought. Whether anything was written down at the time the Department applied the exemptions has never been established, and the disregard is what prevents it from being established. If nothing was written down, I am being directed to court to ask a judge to rule on my right of access to a record that may not exist. Confirming that a record does not exist costs nothing under this Act. A public body writes one sentence in a response letter. Instead the framework sends a senior on a fixed income to the Supreme Court, at a cost of thousands of dollars and months of court time, to obtain that same sentence. That is not proportionate, and it is not what the Trial Division is for.

Meanwhile, any other person in this province can walk into Government Services tomorrow and file a free access request for the exact same document. They have no complaint history connecting them to GS-124-2025, so the ground used against me cannot be used against them. If the Department produces it for them, it costs nothing and takes weeks. For me it costs thousands of dollars and, on this Office's own written estimate of court availability, could run past 2027. The record is not exempt. No provision of Division 2 of Part II protects it. It is free to everyone except the one person who used the complaint process this Act was designed to provide.

That is not a procedural technicality. That is the right of access operating as a luxury good. The Act says it should operate as a democracy.

The Hidden Penalty — Why ATIPPA Forms Would Need a Warning Label

If the current interpretation of Section 21 is allowed to stand, the OIPC complaint form ought in fairness to carry the following notice.

WARNING. By exercising your statutory right to file a complaint regarding redactions or delays under ATIPPA 2015 you may permanently forfeit your right to request internal administrative compliance or decision-making records created during the processing of your original access request. Filing a complaint may leave you with fewer access rights than an individual who never engaged the oversight process at all.

No legislature would enact a statute containing that disclaimer because it contradicts the purpose stated in Section 3. Yet that is the operational reality Section 21 created in my file. I filed a complaint. A report was issued. That report became the basis for blocking my access to the underlying records it relied upon. I am in a worse position because I complained than I would have been had I never complained.

That is a chilling effect in the ordinary administrative law sense. A rule that quietly penalises someone for exercising a public right discourages citizens from using it. If applicants understood before filing that doing so might cost them access to the underlying records, many would not file, and the mechanism that is supposed to hold public bodies accountable would be undermined by the undisclosed cost of using it. The fact that no legislature would put that

warning on a government form is itself the argument that the interpretation producing it should not stand.

I want to put that in personal terms, because it is the part of this submission I can speak to directly. If I had known before I filed my complaint that this Office would decline to provide me with the Department's Section 9 analysis during the complaint, and would then approve a disregard of my access request for that same analysis afterwards, I would have thought twice about filing the complaint at all. I am not saying I would not have filed it. I am saying I would have had to weigh it. No citizen should have to weigh whether using an oversight process will leave them with fewer rights than not using it. That is what a chilling effect looks like from the inside, and it is the reason I am asking this Committee to close the gap rather than simply recording that it exists.

Proposed Amendment 3 — Procedural Fairness in OIPC Section 9 Reviews

Insertion target: Add as Section 44.1 under Part III (Reviews).

44.1 Disclosure of Section 9 Analysis in Complaint Reviews. (1) Where a public body submits a written evaluation or rationale regarding Section 9 to the commissioner during a review under Part III, the commissioner shall provide a summary of that evaluation to the complainant before issuing a final report under Section 47. (2) The summary shall set out the specific public interest factors evaluated by the public body and its reasoning for concluding the threshold was not met. (3) The complainant shall be granted a reasonable opportunity to submit written representations in response to the summary before any finding regarding the Section 9 override is finalized.

The objection to this amendment is that Sections 96 and 102 prohibit disclosure of investigation materials. That objection is answered by this Office's own position. In correspondence of April 29 2026 the analyst wrote that she was able to provide me with a summary of the relevant submissions to support my opportunity to respond, while noting that under Sections 96 and 102 the investigation materials themselves could not be disclosed. A summary is therefore possible under the Act as it stands, and this Office said so in writing.

What followed under that heading was a list of which exceptions the Department had claimed and its conclusion that the threshold was not met. It identified no factor weighed, no evidence considered, and no reasoning. It told me the outcome of the Department's analysis and nothing about how that outcome was reached. The defect this amendment addresses is therefore not that a summary is prohibited. It is that nothing in the Act requires one, and nothing specifies what a summary must contain in order to give a complainant a meaningful opportunity to respond.

Proposed Amendment 3A — Access to Public Body Decision-Making Records

Insertion target: Add as Section 8.1 under Part II (Access to Records).

8.1 Access to Section 9 Decision-Making Records. (1) A written evaluation, analysis, note or worksheet created by a public body pursuant to Section 9 constitutes an administrative record of the public body and is subject to Part II. (2) Where no written record of a Section 9 analysis

was created during the initial processing of an access request, the public body shall issue a formal written response confirming that no such record exists.

Proposed Amendment 3B — Mandatory Initial Disclosure of Section 9 Analysis

Insertion target: Amend Section 17 (Response of Public Body).

17(1.1) Mandatory Disclosure of Section 9 Analysis. Where a public body applies a discretionary exception under Division 2 of Part II and conducts a public interest evaluation under Section 9, the written record of that analysis, detailing the specific factors weighed for and against disclosure, shall be provided to the applicant with the response issued under Section 17.

This amendment prevents the entire sequence documented in Gap 3 from arising. If the analysis accompanies the initial response, the applicant sees the reasoning before deciding whether to complain, the OIPC never has to assess an analysis the complainant has not seen, and no secondary access request is necessary. My experience shows what happens without it. I received a conclusion. I never received the analysis. I filed a complaint. The OIPC accepted the conclusion without disclosing the analysis to me. I filed a direct ATIPP request for the analysis. It was disregarded. The written record of a public body fulfilling a statutory obligation should not require months of complaints and access requests to obtain.

Proposed Amendment 3C — Limits on the Approval of Disregard Applications

Insertion target: Amend Section 21 (Disregard of Request).

21(1.1) Evidentiary Threshold for Repetition. The commissioner shall not approve an application under paragraph (1)(c) on the ground that a request is unduly repetitive or systematic unless the public body establishes with objective evidence that the specific records sought have previously been disclosed to the applicant.

21(1.2) Exclusion of Oversight Participation. For the purpose of paragraph (1)(c), an applicant's exercise of the right to file a complaint or to participate in a review under Part II or Part III, and an applicant's election not to commence an appeal under Section 52, shall not be treated as an adverse factor, as evidence of an improper pattern of conduct, or as grounds for finding a subsequent request repetitive, systematic or an abuse of the right of access.

21(1.3) Preservation of the Applicant-Blind Principle. An application under paragraph (1)(c) shall not be approved where the effect of the disregard would be to withhold from the applicant a record that remains disclosable to any other member of the public under Part II. Section 21 shall not operate to create a personal prohibition on a public record directed at a specific applicant on the basis of request history or prior participation in oversight proceedings.

21(1.4) Revised Requests. A request that narrows or revises an earlier request in response to the reasons given for refusing that earlier request shall not, by reason of that narrowing or revision alone, be considered repetitive or systematic under paragraph (1)(c).

21(1.5) Notice of the Application and Opportunity to Respond. (a) A public body that applies to the commissioner under subsection (1) shall, on the same day, give the applicant written notice that the application has been made and provide the applicant with a copy of the

application and of any material submitted in support of it. (b) The applicant may make written submissions to the commissioner within 5 business days of receiving that notice. (c) The commissioner shall not approve an application under subsection (1) before the period in paragraph (b) has expired or the applicant has responded, whichever occurs first. (d) The burden of establishing that a ground in subsection (1) is made out rests on the public body.

The first four subsections address one defect from four directions, and my file demonstrates each of them. The fifth addresses the process by which the decision is made rather than the grounds on which it may be made.

Subsection (1.1) requires objective evidence. The Office's own guidance defines a repetitive request as one for the same records submitted more than once. Nothing in my file meets that description, and no evidence of prior disclosure was ever produced, because the record has never been disclosed to me.

Subsection (1.2) is the most consequential of those four. I filed a complaint about redactions in GS-124-2025. That complaint produced Report A-2026-014. When I then filed a direct access request for the underlying Section 9 analysis, the existence of that report became the reason my request was unduly repetitive, and my decision not to appeal became a further reason. My use of the oversight process was turned into the basis for denying my access right. Engaging with the OIPC should never leave a citizen with fewer rights under ATIPPA, 2015 than a citizen who never engaged at all.

Subsection (1.3) restores the principle that access rights attach to records rather than to requestors. The Section 9 analysis has never been claimed exempt under any provision of Sections 27 through 41. Any other person could request it today and the ground used against me could not apply to them, because that ground rests on my own request history. The record is disclosable to the entire public except the one citizen who filed the original request and then used the complaint process this Act provides.

Subsection (1.4) addresses the sequence set out in Gap 3. GS-065-2026 was refused under Section 41(c). I narrowed the request so that Section 41(c) could not apply and filed it the following day. Narrowing a refused request is what the Commissioner's published guidance, her own public advice, and this Office's Director of Research and Quality Assurance each recommend. Without subsection (1.4), an applicant who follows that advice can have the narrowing itself treated as evidence of a repetitive pattern, and no applicant in this province can safely revise a refused request.

Subsection (1.5) is the provision I would ask the Committee to consider most carefully, because it changes the character of the process rather than its outcome in any particular case. As set out above, a public body seeking to extinguish a request in this province is not required to tell the applicant it is doing so, and the applicant has no opportunity to say anything before the right of access is removed. In British Columbia the applicant is a party to that proceeding. In Ontario the applicant can require the institution to prove its case before an adjudicator. Here the applicant is absent from a proceeding about their own conduct.

The subsection is drafted to preserve the speed the current process is designed for. It does not extend the five business day period for applying, and it does not require the public body to wait if the applicant responds sooner. It adds, at most, five business days to a process the Act intends

to take eight, and only where the applicant chooses to use them. Paragraph (d) states what this Office's own guidance already assumes but the Act does not say: that the public body must establish the ground relied upon. Subsection (1.5) addresses what happens before a disregard is approved. What happens afterwards, and in particular the absence of any review short of the Trial Division, is the subject of a separate amendment in a later submission in this series; the two are intended to be read together.

Proposed Amendment 3D — Transparency, Timeliness and Accuracy of Disregard Notices

Insertion target: Amend Section 21 (Disregard of Request).

21(4.1) Notice to the Applicant. Where the commissioner approves an application to disregard a request, the public body shall notify the applicant in writing not later than 5 business days after the approval. The notice shall state the date on which the application was made to the commissioner, the date on which approval was given, and the specific grounds relied upon.

21(4.2) Reasons of the Commissioner. The commissioner shall provide the applicant with written reasons for the approval of a disregard application, sufficient to permit the applicant to understand why the request met the threshold in subsection (1).

21(4.3) Accuracy of Notice of Rights. A notice of disregard shall accurately state the review and appeal rights available to the applicant and shall not state that a complaint may be filed under Section 42 where Section 42(8)(a) prohibits it.

42(8.1) Preservation of Duty to Assist Complaints. Paragraph (8)(a) does not prevent an applicant from filing a complaint respecting the compliance of the head of a public body with Section 13 in relation to a request that has been disregarded under Section 21.

Each requirement is supported by the facts in this section. The Act currently sets no deadline for notifying the applicant, with the result that I received a formal Section 15 advisory response promising a July 31 final response while a disregard application had already been made, the coordinator communicating with me being, in his own department's words, unaware of the circumstances. The Commissioner declines as a matter of policy to explain disregard decisions beyond the public body's notice, and that notice supplied a single sentence. And the notice I received directed me to a complaint route that Section 42(8)(a) forecloses, while the text of Section 42(8)(a) was reproduced in the same letter.

Subsection 42(8.1) addresses the point set out above under the duty to assist. Section 42(8)(a) properly prevents an applicant from using the complaint process to attack a disregard the commissioner has approved. It should not also extinguish the applicant's ability to raise how the public body treated them before that approval. In my file a formal statutory response was issued that the Department itself withdrew as inaccurate, and there is no forum short of the Supreme Court in which that can be raised. This subsection separates the two questions, leaving the disregard unchallengeable by complaint while preserving the duty that Section 13 imposes on every public body in every file.

Gap 4 — Section 30 Self-Certification Without Independent Verification

What Happened

One hundred and twenty-seven pages of records in my request were redacted entirely under Section 30 solicitor client privilege. The OIPC could not review those records because of the decision of the Court of Appeal of Newfoundland and Labrador in *Newfoundland and Labrador (Information and Privacy Commissioner) v Newfoundland and Labrador (Justice and Public Safety)*, 2023 NLCA, issued September 7, 2023, which held that the Commissioner has no authority to compel production of records over which solicitor-client privilege is claimed. The Department's own solicitor confirmed the three part privilege test was met. The OIPC accepted that confirmation. No independent verification occurred.

The following is my submission on this point word for word as submitted before the report was issued.

This Office has confirmed that the 127 pages redacted entirely under Section 30(1)(a) and Section 30(1)(b) were not reviewed by this Office. The assessment is based entirely on the Department Solicitor's confirmation that the three part legal test was met. With respect that is not independent oversight. The Commissioner himself said in his September 2023 statement that without the ability to review records all a public body has to do to deny disclosure is claim the exception and the OIPC will be unable to ensure that this exception is not abused and applied to documents that are not legal advice. That is precisely what has happened here. 127 full pages have been withheld and this Office has accepted the Department's own solicitor's word without seeing a single page.

Section 30 protects the actual communication between solicitor and client made for the purpose of obtaining legal advice. It does not protect an entire document simply because it contains or references legal advice. Policy analyses, briefing notes, factual summaries, operational records, and decision notes that appear alongside or reference legal advice must be severed and disclosed under Section 8(2) of ATIPPA, 2015. 127 full pages redacted entirely is an extraordinary volume to consist entirely of solicitor client communications with no severable factual or operational content whatsoever. I ask this Office to confirm that the Department was required to and did sever and disclose all content from within those 127 pages that does not itself constitute solicitor client communication, and that the Section 30 claim was not applied to entire documents on the basis that some portion contains legal advice.

The report's response to this submission was the following.

In light of current jurisprudence which removes the right of this Office to compel production of solicitor client records, the Department exercised its discretion in declining to provide this Office with such records. However, the Department did provide information sufficient for this Office to make a determination that, on a balance of probabilities, the records were properly withheld.

The report did not address the severability question. It did not confirm that Section 8(2) was applied. It confirmed only that the Department provided information sufficient to conclude on a balance of probabilities that the privilege was properly claimed. That is supervised self-assessment not independent verification.

Why This Is a Structural Gap

Commissioner Michael Harvey publicly identified this as a serious gap in his September 2023 statement, issued in the days following that decision. The legislature has not acted to address it. Under the current Act any public body that wants to withhold any document simply instructs its solicitor to confirm the three part legal test is met. The OIPC records that confirmation. The document stays withheld. No independent verification ever occurs. That is supervised self-assessment rather than independent oversight.

This gap is particularly significant in cases involving public accountability. Internal government communications about legal compliance decisions are precisely the documents most likely to be claimed under Section 30. They are also precisely the documents the public has the greatest interest in accessing. The current Act provides no check on whether the privilege claim is legitimate or whether non-privileged content within claimed documents has been severed.

Commissioner Hatfield has publicly identified this same problem. In her May 29 2026 interview she said she would like the Act amended to give her Office express authority to review records withheld under a claim of solicitor-client privilege, and her reason was that public bodies are not always right — that there have been court cases where the claim was made and the records turned out not to be privileged. She was careful to say the exemption itself should remain. So am I. The amendment below asks for nothing the Commissioner has not already asked for on her own behalf. Where the applicant and the oversight body independently identify the same defect, the case for legislative attention is stronger, not weaker.

Proposed Amendment 4 — Independent Verification of Solicitor-Client Claims and Mandatory Redaction Index

Insertion target: Amend Section 44 (Conduct of Review) and Section 17 (Response of Public Body). Section 44(6) Restoring Independent Review of Privileged Records. Notwithstanding any claim of solicitor-client privilege under Section 30 the commissioner may compel the production of and review any record claimed under Section 30 for the limited purpose of independently verifying whether the privilege has been properly claimed and whether non-privileged content can be severed under Section 8(2).

Section 44(6.1) Safeguards on Production. A record produced to the commissioner under subsection (6) shall be reviewed in camera; shall not be copied, retained after the review is concluded, or disclosed to the applicant or to any other person; shall not be described in a report except to the extent necessary to state whether the claim was properly made and whether severance was required under Section 8(2); and production under this section does not constitute a waiver of solicitor-client privilege for any purpose.

Subsection (6.1) is included deliberately. In *Newfoundland and Labrador (Information and Privacy Commissioner) v Newfoundland and Labrador (Justice and Public Safety)*, 2023 NLCA, the Court of Appeal gave two reasons for holding that the Commissioner cannot compel production of privileged records. The first was that the language of the Act was not sufficiently explicit. The second was that the Act contained insufficient safeguards to prevent disclosure of privileged material. Amendment 4 addresses the first. Subsection (6.1) addresses the second. An amendment that supplied explicit language without safeguards would answer only half of the Court's reasoning, and the Commissioner has been clear in public that she seeks the power to verify a privilege claim, not to release privileged records.

Section 17(1.2) Mandatory Redaction Index for Section 30 Claims. Where a public body withholds a record in its entirety under Section 30 it shall provide the applicant and the commissioner with a detailed redaction index. The index must confirm that the public body has actively reviewed the record for severable non-privileged content including factual summaries operational data or decision notes and certify that no non-privileged information can be disclosed under Section 8(2).

The index must verify on a record-by-record basis that the public body has actively reviewed each page for severable factual summaries, data or operational findings, and that no non-privileged content exists within the withheld record that could be disclosed under Section 8(2). Without such an index the OIPC has no mechanism to assess whether severability was genuinely applied or simply assumed. The redaction index requirement provides mandatory accountability for the severability obligation without requiring the Commissioner to review the privileged content itself.

Gap 5 — The OIPC Is Not Required to Evaluate Disclosed Records as Corroborative Evidence of Public Interest

What Happened

The partial disclosure in this complaint included an April 26, 2023 email from the Director of Collections, Digital Government and Service NL, to the Director of Income Support, copied to the Collections Manager. It appears at page 46 of the records released under GS-124-2025 and is reproduced in full in Annex D. The subject line and the opening portion of the message were withheld under Section 30(1)(a). What was released reads as follows.

*We frequently receive new accounts to initiate collection activity that are passed the limitation period of 6 years. In some cases the balance may only be partly statute barred if there are multiple overpayments that make up the balance. **We need direction on these accounts urgently.** It has been our practice to write-off the statute barred portion and proceed with collection activity on the rest.*

Does anyone at CSSD review files for limitations issues before they are transferred to collections? Is anyone responsible for writing off statute barred accounts when the overpayments are over 6 years? These type of accounts are mostly clients that switch from Income Support to a pension but there are others as well.

Can we set up a meeting to discuss further?

Three things are established on the face of that record, in the Department's own words, in a document the Department itself chose to release. Accounts past the six year limitation period were arriving at Collections as a matter of routine. Nobody within the Department knew who, if anyone, was checking for limitation period compliance before transfer, or who was responsible for writing off statute-barred accounts. And the Director of Collections considered the situation urgent enough to say so in writing and to ask for a meeting.

There is a fourth thing about that record, and it is what the record does not contain. The subject line was withheld. The attachment line was withheld. The opening portion of the message, immediately preceding the words that were released, was withheld. All three under Section 30(1)(a), legal advice.

The question therefore survives in the disclosed record and the answer does not. A citizen reading page 46 can see the Director of Collections asking whether anyone reviews files for limitation issues before transfer to Collections, and whether anyone is responsible for writing off accounts where the overpayments are over six years old. What accompanied that question — the subject it was filed under, the document attached to it, and whatever was written immediately before it — is withheld as legal advice.

I make no claim about what those withheld portions say. I have not seen them, and neither has this Office. That is precisely the point, and it is where Gap 4 and Gap 5 meet in a single record. The Department's own solicitor confirmed the Section 30 test was met. No one outside the Department has verified that confirmation, or verified that severance under Section 8(2) was applied to any factual or operational content within the withheld portions. The record that raises the question was released. The material attached to it was not, and cannot be checked by anyone.

This email was voluntarily disclosed by the Department. It directly corroborated my public interest arguments regarding systemic institutional failure. The withheld policy advice under Section 29 is directly relevant to understanding what the Department chose to do in response to that urgent internal warning. Whether management responded by implementing a lawful verification process or by continuing business as usual is precisely the kind of information regarding government integrity that the Section 9 public interest override exists to bring to light.

However, the OIPC's Section 9 analysis completely failed to engage with this disclosed evidence or consider how it corroborated my public interest arguments. The OIPC assessed my arguments against a theoretical standard of whether the public interest clearly outweighs the exception entirely ignoring the fact that the public body's own disclosed records provided concrete prima facie evidence of the systemic problem I described.

Why This Is a Structural Gap

When a complainant receives partial disclosure and raises Section 9 public interest factors, the OIPC operates under no statutory obligation to assess whether the existing disclosures support or corroborate those arguments before concluding a burden has not been met. This permits the

OIPC to evaluate an applicant's public interest arguments in a vacuum completely divorced from the evidentiary context of the file.

The OIPC is an investigative body not a passive court. It has total access to both the disclosed and withheld records. A self-represented complainant without formal legal training cannot always be expected to isolate every piece of supporting evidence within a massive complex records package or understand its full technical significance in relation to a Section 9 threshold. Because the OIPC holds the entire file it is uniquely positioned to assess whether the disclosed records corroborate the applicant's public interest assertions. The Act must mandate that it do so.

How Ontario Handles the Same Problem

Ontario has confronted precisely this difficulty and resolved it the other way. The public interest override in section 23 of Ontario's *Freedom of Information and Protection of Privacy Act* is, like Section 9 of ATIPPA, 2015, silent on who bears the onus. The Office of the Information and Privacy Commissioner of Ontario has held that the onus cannot rest entirely on the appellant, because the appellant has not had the benefit of reviewing the requested records before making submissions, and that to hold otherwise would impose an onus an appellant could seldom if ever meet. The consequence is set out in the Ontario IPC's published Interpretation Bulletin on the public interest override, and rests on its Orders P-244 and PO-4277: that Office will itself look at the records to decide whether there could be a compelling public interest in disclosure that clearly outweighs the purpose of the exemption.

That is the same reasoning our own Trial Division applied in *Mastropietro*, carried through to its practical conclusion. Newfoundland and Labrador adopted the premise — the burden must be relaxed because the applicant has not seen the records — without adopting the remedy that follows from it. Ontario's oversight body examines the record itself rather than treating the applicant's inability to see it as the applicant's problem alone. Ours issued a one sentence conclusion that the burden was not met.

Two differences should be stated plainly so the comparison is not overstated. Ontario's override applies only to a listed set of exemptions rather than to discretionary exceptions generally, and its threshold is higher than ours: a compelling public interest that clearly outweighs the purpose of the exemption. In scope, Section 9 of ATIPPA, 2015 is the stronger provision. The difference is not in the words of the statute but in what the oversight body is expected to do with them. Ontario asks its Commissioner to look. Ours is not required to.

Proposed Amendment 5 — Corroborative Evidentiary Evaluation under Section 9

Insertion target: Amend Section 44 (Conduct of Review). Section 44(4.1) Duty to Evaluate Disclosed Records as Corroborative Evidence. In evaluating whether the public interest in disclosure outweighs an exemption under Section 9 the commissioner shall conduct a holistic evidentiary review of all records disclosed in the file. Where disclosed records provide prima facie evidence or corroboration of systemic regulatory financial or statutory non-compliance the commissioner shall require the public body to provide elevated written justification for

maintaining the exemption and shall address that corroborative evidence explicitly in the final report.

Furthermore where disclosed records contain clear evidence that withheld records directly address a documented systemic regulatory or statutory failure the OIPC shall be required to provide specific written reasons justifying why the public interest override does not apply in light of that evidence. This amendment ensures that the relaxed burden established in Mastropietro operates as a meaningful practical protection for self-represented applicants rather than a hollow legal concept.

Why These Amendments Matter

The five structural gaps described above did not prevent me from continuing to pursue accountability. I have the time and determination to keep documenting institutional conduct. Most citizens do not. The people most affected by gaps in ATIPPA, 2015 are precisely the people least able to navigate around them. This submission proposes nine legislative amendments in total. Five of those amendments numbered 3 through 3D address Gap 3 specifically because the experience of trying to access the Section 9 analysis through the complaint process and then through a direct ATIPP request revealed multiple overlapping structural problems all flowing from the same core issue. A citizen who files a complaint should not end up with fewer access rights than one who never complains. An OIPC report should not become a shield against future access to the underlying records it accepted. A disregard should not be usable to restrict access to records that are disclosable to every other citizen. Those are not technical legal arguments. They are the documented consequences of the current framework experienced by a citizen trying to use the Act the way the legislature intended.

A note on cost. Public bodies and this Office may reasonably ask what these amendments would cost. Amendment 3D costs almost nothing: a notice of disregard must be written in any event, and requiring it to carry two dates, the grounds relied on, and an accurate statement of appeal rights adds no work to writing it. Amendment 3B reduces cost rather than adding to it. A Section 9 analysis disclosed with the initial response removes the reason for what followed in my file: a complaint, a review, a subsequent access request, and a disregard application. Four separate proceedings, each consuming departmental and OIPC resources, would have been unnecessary had one document accompanied the original response. Amendments 1 and 2 are engaged only where a complainant has submitted specific documented arguments or a specific verifiable factual challenge. That is a small proportion of complaints, and it is precisely the proportion in which reasons matter most. And as set out under Gap 5, Ontario's oversight office already examines records itself to determine whether a public interest in disclosure exists, without its complaint system becoming unworkable. The question before this Committee is not whether these obligations are free. It is whether the current absence of them is cheaper. My file suggests it is not.

The proposed amendments do not require the OIPC to find for complainants. They require the OIPC and public bodies to engage with specific arguments, explain their reasoning on specific factual challenges, disclose their Section 9 analysis, consider whether disclosed records corroborate public interest arguments, and submit privilege claims to genuine independent

review. That is procedural fairness. That is what ATIPPA, 2015 is supposed to provide. The current Act does not require it in these specific situations. These amendments would.

Analytical Questions for the Committee's Consideration

The following questions are offered to assist the Committee in considering the structural implications of the issues documented in this submission. They are presented strictly as forward-looking policy considerations and are not requests for findings on any past file.

Question 1: Prior Complaint as Disregard Grounds. When a citizen files a complaint under Part III and later seeks under Section 8(1) the public body's own never-disclosed administrative records created before the complaint was filed should the existence of that prior complaint or report itself be treated as grounds for a Section 21 disregard of the subsequent access request?

Question 2: Inferred Motive under Section 21. Does Section 21 permit the Commissioner to infer an applicant's underlying purpose such as re-litigation or conducting one's own investigation and then use that inferred purpose as the basis for approving a disregard of a request for a specific previously unreleased record?

Question 3: Personal Prohibitions on Public Records. If a record remains disclosable on its merits to any other member of the public under Part II is it consistent with the purpose of the Act under Section 3 for Section 21 to create a personal bar that applies only to the individual who previously exercised the right to complain?

Question 4: Net Loss of Access Rights. When an OIPC report relies on a public body's Section 9 analysis that was never disclosed to the complainant and a subsequent access request for that analysis is disregarded on the basis of that report does this framework produce a net loss of access rights for citizens who engage the oversight process compared to citizens who never complain at all?

Question 5: Parallel Rights vs Extinction. Should the right of access under Section 8(1) and the right to file a complaint under Section 42 operate as parallel independent statutory rights or should the exercise of one be permitted to diminish the other?

Question 6: Substantive Exemptions vs Disregard. Where no substantive exemption under Division 2 of Part II has been identified for a record is a Section 21 disregard an appropriate administrative tool to prevent disclosure of that record to the original applicant?

Question 7: Accountability of Oversight Officers. Given that Section 3(1)(b) requires transparency so that officers of public bodies remain accountable and the Commissioner is an officer of the House of Assembly under Section 2(s) how should Section 21 be applied when its effect is to shield from scrutiny the underlying evidentiary basis of an OIPC report?

Conclusion

I respectfully ask the reviewer to consider the five structural gaps identified in this submission and the nine proposed amendments addressing them. The four public interest arguments and the report's one sentence response to all four are reproduced side by side in this submission so the reviewer can assess directly whether arguments of that specificity and documentary weight

deserve individual engagement under the relaxed Mastropietro burden. Gap 3 in particular produced five amendments numbered 3 through 3D because the attempt to access the underlying Section 9 analysis after the complaint closed revealed that the complaint process and the access right can operate against each other in ways that penalise citizens for engaging with oversight. The disregard of GS-077-2026 and the Commissioner's response to my challenge of it are reproduced in full in Annexes A through F so that the review committee can examine the primary record for itself. I will be making additional submissions addressing separate gaps revealed by other complaints in my file.

The Sequence

Everything in this submission reduces to the following. Each step is documented in the annexes.

1. I filed an access request with Government Services. Records were withheld under discretionary exemptions.
2. Before applying a discretionary exemption a public body must consider the public interest under Section 9. During the complaint I asked the OIPC for a summary of the Department's Section 9 analysis so that I could respond to it. I was refused.
3. Report A-2026-014 accepted the Department's Section 9 conclusion in a single sentence. The reasoning behind that conclusion was never disclosed to me.
4. I asked two questions about the report. Twenty-four minutes later the file was closed and no further correspondence was provided.
5. I filed access request GS-065-2026 for the Department's submissions to the OIPC, including the Section 9 analysis. It was refused in full — 330 pages — under Section 41(c), a mandatory exception, as connected with the OIPC's investigatory functions.
6. I did not complain about that refusal and I did not appeal it. I narrowed the request instead — one record, held in the Department's own files, in a period ending on the day the complaint was filed — and filed it the next day as GS-077-2026.
7. Narrowing a refused request and asking again is what this province's own authorities advise applicants to do. The Commissioner's published disregard guidance asks a public body seeking a disregard whether the applicant was requested to break the request down into smaller requests. In her May 29 2026 interview the Commissioner told the public that an applicant who did not get what they were looking for can always go back and make another request. And on April 29 2026 this Office's Director of Research and Quality Assurance wrote to me that a person whose request has been disregarded will often go back to the public body with a revised request, that his Office will often encourage a public body to invite exactly that, and that a new access request should produce a more timely outcome than court.
8. On July 17 Government Services told me in a formal Section 15 advisory response that the request was being processed and that a final response would follow by July 31.

9. On July 21 the request was disregarded with the Commissioner's approval as unduly repetitive or systematic. One minute later the Department retracted its July 17 letter, explaining that the coordinator "was unaware of the circumstances."
10. I asked the Commissioner what made the request unduly repetitive. She replied that her Office does not comment on the reasons behind its disregard decisions, and pointed to the report.
11. I asked again, and put two questions to her for this Committee's benefit. She replied that the request was an attempt to conduct my own investigation and to re-litigate the report on my own terms, that this was an abuse of the right of access, and that I should have appealed. Neither question was answered.
12. No statutory exemption has ever been identified for the record. The only remaining route to it is the Supreme Court Trial Division, and her own Office has told me in writing that a court date before 2027 could be difficult.

At no point in that sequence did I do anything the Act does not permit, and at several points I did precisely what this province's own guidance instructs. If that is how ATIPPA, 2015 is meant to operate, then the advice every official body in this province gives applicants — narrow your request and try again — carries a risk that nobody discloses. If it is not how the Act is meant to operate, the amendments in this submission would stop it happening to the next person.

Respectfully submitted,

David Hanrahan

ANNEX A — Complete Correspondence with the OIPC Regarding the GS-077-2026 Disregard

This annex reproduces the complete written exchange between David Hanrahan and the Office of the Information and Privacy Commissioner regarding the disregard of access request GS-077-2026, in chronological order.

From: David Hanrahan [REDACTED]
Sent: Tuesday, July 21, 2026 10:01 PM
To: OIPC, Commissioner Commissioner@oipc.nl.ca
Subject: Question Regarding Disregard of GS-077-2026 - Request for Explanation

Dear Commissioner Hatfield,

I am writing as a follow-up regarding the disregard of access request GS-077-2026.

I want to ask this Office a straightforward question: Can you please tell me specifically what is wrong with my request GS-077-2026 that makes it “unduly repetitive or systematic” under section 21(1)(c)(ii)?

This request was filed for two specific purposes:

- **First**, to obtain the Section 9 public interest analysis the Department of Government Services conducted during the processing of access request GS-124-2025. That analysis has never been provided to me. I have never seen it. I requested it specifically to understand the Department’s own reasoning. It would have shown me whether the Department conducted a Section 9 analysis at all and how government treats that obligation in practice.
- **Second**, the records would have directly supported my submissions to the 2026 ATIPPA Statutory Review currently being conducted by Keri-Lynn Power.

I cannot understand how a request for one specific document created by a department during its own statutory decision-making process—that has never been disclosed to me—can be characterised as “unduly repetitive or systematic.”

I also want to raise a question about the timeline that I am hoping this Office can explain:

1. GS received my request on **July 3, 2026**.
2. The five-business-day window under section 21(1) expired on **July 10, 2026**.
3. On **July 17, 2026**, I received a formal advisory response from GS coordinator Vincent Au under section 15 of ATIPPA 2015, stating that my request was being processed and that a final response would be provided by July 31, 2026.
4. Four days later, on **July 21, 2026**, I received a disregard notice.

I have attached both documents to this email. I am asking this Office to explain how this sequence is consistent with a valid, timely disregard application. The statutory filing window had already expired on July 10. I had already received a formal advisory response on July 17 telling me my request was being processed toward a July 31 final response. A disregard notice then arrived four days after that advisory response. I do not understand how all three of those things can be consistent with each other, and I would appreciate a clear explanation.

I want to be honest with you about something. I am asking myself whether I am doing something wrong with my access requests, as three of them have now been disregarded. The first two were filed to TBS and would have directly helped my ongoing privacy complaint with this Office. Those requests sought records that could have produced evidence of government knowledge of the collection of potentially statute-barred debts at the highest authority level. I was told by your own office to file smaller, more focused requests. I followed that advice. GS-077-2026 was a smaller, focused request for one specific document. It has also been disregarded.

I am genuinely asking: **What am I doing wrong?** Every request I file that could hold government accountable for its decisions affecting me personally—or that could support my active OIPC complaints or help my statutory review submissions—seems to get disregarded. The reasons I am given do not seem like the kind of good reasons you described in your May 29,

2026 interview with *The Independent* when you said, “If you want to not give information to the public, you better have a darn good reason.”

The disregard notice for GS-077-2026 states that given my history of similar requests, the OIPC has found that the current request repeats issues that have already been formally reviewed by your Office and addressed by the Department. With respect, that does not seem like a “darn good reason.” ATIPPA is about access to records, not about issues or complaints. The Section 9 public interest analysis I requested is a specific document created by the Department during its own statutory decision-making process. It has never been provided to me; I have never seen it. A record that has never been disclosed to me does not become repetitive simply because related complaints exist. It remains a document I have never been given, and I do not understand how requesting it for the first time can be characterised as repeating something that has already been addressed.

I want to raise one final concern respectfully. When I look at the pattern of my requests and how they have been handled, I find myself wondering whether my requests are being managed as a “file” rather than assessed individually on their own merits as the Act requires. I raise this not as an accusation, but as a genuine question. Each request I file is a separate request for specific records that have never been produced. Each one should be assessed individually on whether it meets the statutory grounds for disregard. I am asking this Office to confirm that GS-077-2026 was assessed individually on its own merits, and not on the basis of a broader view of my history as a requestor.

I acknowledge that many of my requests touch on sensitive subjects. But they are legitimate requests connected to active OIPC complaints and a statutory review process that this Office encouraged citizens to participate in. I am not asking for anything I am not entitled to. I am asking for documents the government created about decisions that affected me.

If requesting a single, previously undisclosed document created during a department’s own statutory decision-making process is deemed “unduly repetitive,” I would ask this Office to explain what the acceptable threshold is for a citizen requesting internal decision records under ATIPPA 2015. I want to use this process correctly, and I cannot determine how to do that based on the reasons I have been given. **Any guidance you can provide on what I am doing wrong would be genuinely appreciated.**

What I cannot understand is why the requests that keep getting disregarded are specifically the ones that could provide the most valuable information for my active privacy complaints with this Office and for my submissions to the 2026 ATIPPA Statutory Review. Those are not frivolous requests. They are requests for records that would help me participate meaningfully in an active OIPC complaint process and in a statutory review of the very Act this Office administers. I would appreciate an explanation of why those are the requests that keep being stopped.

I am asking this Office to explain to me clearly and specifically:

- **What made GS-077-2026 meet the threshold of ‘unduly repetitive or systematic’;**
- **What I could have done differently to make this request acceptable; and**
- **How the July 17 advisory response is consistent with a valid, timely disregard application.**

I have attached both documents for reference.

Regards,

David

From: OIPC, Commissioner Commissioner@oipc.nl.ca

Sent: July 24, 2026 1:37 PM

To: David Hanrahan [REDACTED]

Cc: OIPC, Commissioner Commissioner@oipc.nl.ca

Subject: RE: Question Regarding Disregard of GS-077-2026 - Request for Explanation

Hello Mr. Hanrahan,

I understand your frustrations with the ATIPP process and with this disregard in particular. However, this Office does not comment on the reasons behind our disregard decisions outside of what is provided by the public body to an applicant in their notice of disregard. As per the notice of disregard provided to you by the public body on July 21st, the disregard was granted on the basis that the request sought records relating to issues that had already been formally reviewed by this Office and was therefore unduly repetitive or systematic. Report A-2026-014 sets out this Office's decision with respect to the application of s. 9 to the redactions made to the original records. In that report it was found that the public body had addressed the application of s. 9, and that the burden to apply the public interest override had not been met. If you disagree with the public body's decision to disregard your access request, you can appeal the decision to the Supreme Court of NL as set out in section 52 of the Act. Information on starting an action at the Supreme Court can be found on their website.

For some general information on the disregard process and what we are looking for in a disregard application please see our guidance piece and Information Desk Article in our recent newsletter.

With regards to the timelines related to the disregard application I can confirm that all statutory timelines were met by both the public body and this Office with respect to the filing of the disregard application and the response thereto. The Act does not provide a specific timeline for public bodies to provide the notice of disregard to an applicant. It is unfortunate that the public body was not more timely in providing you with the notice of disregard, and a faster turnaround may have removed some of the confusion and frustration that now exists. The issue of the public body advising you that they were processing your request and then applying for a disregard is not anything this office can explain. We are not involved in the internal processes of each public body. A disregard application was received by this office, was reviewed and our decision was communicated to the public body as is required under section 21 of ATIPPA, 2015. Each disregard is assessed on its own merits.

We understand that you have underlying issues with decisions made by certain public bodies with respect to the collection of a debt. This Office does not have the jurisdiction to assist you with these underlying matters and would encourage you to contact the Citizens' Representative Office who may be able to help. Information on their complaints process can be found on their

website, and they can be contacted via email at citrep@gov.nl.ca or by telephone at (709) 729-7647.

Kerry Hatfield She/Her
Information and Privacy Commissioner
Office of the Information and Privacy Commissioner
20 Crosbie Place
St. John's, Newfoundland and Labrador
(709) 729-6309

From: David Hanrahan [REDACTED]
Sent: July 25, 2026 8:55 AM
To: OIPC, Commissioner Commissioner@oipc.nl.ca
Subject: Re: Question Regarding Disregard of GS-077-2026 - Request for Explanation

Dear Commissioner Hatfield,

Thank you for your response. I want to make one focused point regarding Section 8(1) of ATIPPA, 2015.

Section 8(1) gives citizens the right to access records—meaning the record itself, not an oversight body's conclusion about what that record contains, nor an assertion that the public body's analysis was adequate. The statutory right is to see the actual document.

Report A-2026-014 states that the Department of Government Services had addressed the application of Section 9 and that the burden to apply the public interest override was not met. That is a conclusion.

During my complaint, I was never provided with the actual Section 9 analysis the Department conducted. I was never shown what factors the Department weighed in favour of withholding or releasing, nor how it assessed their relative weight. I received only the final conclusion.

This matters because Section 9 mandates that a discretionary exception shall not apply where the public interest in disclosure outweighs the reason for the exception. Your Office's published guidelines state that public bodies should create and weigh a documented list of factors for and against release. A documented analysis is a record.

Your Own Guidelines Confirm the Burden Should Have Been Relaxed

Your Office's published guidelines on the public interest override quote *Mastropietro v. Newfoundland and Labrador (English School District)*, 2016 for the proposition that the burden of proof under Section 9 cannot be absolute. It must be relaxed when applicants have not had the benefit of reviewing the records on which they are required to make submissions.

That was precisely my situation during the complaint regarding GS-124-2025. I was required to argue whether the public interest override applied without ever seeing the Section 9 analysis the Department conducted. The relaxed burden standard confirmed by your own guidelines required that I be provided with that analysis. I was not.

Furthermore, your guidelines state that a public body must show it actively considered Section 9, and that a bare assertion that the burden was not met may result in a lost opportunity to justify withholding. I do not know whether Government Services provided a detailed analysis or a bare assertion because I was never shown either. Request GS-077-2026 sought that specific record. The disregard prevented me from finding out.

Being Penalised for Filing a Complaint

I filed a complaint about redactions in GS-124-2025, which produced Report A-2026-014. I then filed GS-077-2026 to access the underlying Section 9 analysis that the report relied upon without ever disclosing. Disregarding GS-077-2026 on the basis that it “repeats issues” creates a troubling precedent.

If I had never filed a complaint, there would be no report to point to and no basis to claim my request was repetitive. I would simply have been entitled to request the Section 9 analysis directly. By engaging the statutory complaint process, I have ended up with fewer access rights than if I had never complained at all. I am effectively being penalised for using the oversight mechanism this Act provides.

ATIPPA, 2015 exists because citizens should not have to take government’s word that processes were followed correctly. Section 3(1)(a) states that the purpose of the Act is to increase transparency so public bodies remain accountable. Accountability requires the ability to verify evidence, not merely to be told a conclusion. The difference between a Department telling a citizen its decision was correct and the OIPC telling a citizen the decision was correct is a difference of source, not of principle.

I Did Not Ask For Investigatory Records

I deliberately restricted the timeframe of GS-077-2026 to December 15, 2025 – February 24, 2026—the exact period during which GS-124-2025 was being processed prior to my OIPC complaint. This ensured I was not seeking investigatory records under Section 41(c). The Section 9 analysis is a Government Services record created during its own initial statutory decision-making process, not an OIPC record.

Jurisdiction Over Access to Records

In your previous response, you suggested referring this matter to the Citizens’ Representative. While the Citizens’ Representative investigates general administrative fairness, they have no statutory authority to order the disclosure of government records under ATIPPA, 2015. Request GS-077-2026 is strictly an access to information request under Section 8(1). Oversight and enforcement of access rights under this Act rest solely with your Office.

My underlying issues with decisions made by certain public bodies with respect to the collection of a debt should not have any effect on my ATIPP requests for records about those same public bodies. Through my ATIPP requests, I have already established that these departments have zero documented verification to confirm whether a debt is statute-barred or accurate before disclosing personal information. Through those same requests, I identified a \$2,891.80 error in the amount disclosed that had been sitting in the department’s own files uncorrected for 17 years. ATIPPA gave me the tools to find that. That is precisely what the Act was designed to do.

This is not what my email was about. My email was about access to records that keep being disregarded for reasons that, in my view, do not meet the threshold you yourself described in your May 29, 2026 interview when you said: *“If you want to not give information to the public, you better have a darn good reason”*

My personal stake in the records I request should not affect my statutory right to access records regarding these subjects. I should be treated as if a journalist, a law firm, or a concerned citizen was requesting records—not “Mr. Hanrahan has a debt dispute with these departments.”

How Section 21 Can Be Weaponized Against Citizens

The outcome of GS-077-2026 illustrates something I believe the 2026 ATIPPA Statutory Review needs to examine carefully. Section 21 was designed as a narrow exceptional remedy for genuinely abusive requests. In practice, when applied as it was here, it can be weaponized against the very citizens ATIPPA was created to serve. It has produced four outcomes in my file that I do not believe the legislature intended:

- **First, it penalizes citizens for using the oversight process.** Exercising my statutory right to file an OIPC complaint became the sole basis under Section 21(1)(c) to deny me access to the underlying compliance records I sought. Engaging with the oversight process left me with fewer access rights than if I had never complained at all.
- **Second, it breaks the applicant-blind principle.** ATIPPA is grounded on the rule that access depends on what a record contains, not who is asking. The Section 9 analysis I sought is a Government Services administrative record. Any citizen who had never filed a complaint about GS-124-2025 could file an ATIPP request for that same document without being told it repeats issues already reviewed. Only I am blocked from seeing it because only I filed the complaint. Section 21 has created a personal prohibition on a public record, which is the opposite of what ATIPPA was designed to do.
- **Third, it bypasses the substantive exemptions in the Act.** Rather than proving that the Section 9 analysis is legally exempt under Division 2 of Part II of ATIPPA 2015, the department used the disregard mechanism as a procedural route to shield an administrative decision-making record without ever having to justify a single legal exemption. No provision of ATIPPA 2015 exempting this record has been identified in your response or in the disregard notice.
- **Fourth, it converts access to information from a universal public right into a financial privilege.** Your response directs me to the Supreme Court Trial Division under Section 52 as my remedy. I am a senior living on Old Age Security. I do not have the financial means to commence court proceedings to challenge a disregard decision. ATIPPA and the OIPC complaint process exist precisely because not every citizen can afford court. Directing a low-income senior to the Supreme Court to challenge a decision made by the OIPC itself converts a universal statutory right into a luxury good available only to those who can afford legal representation. When Section 21 is applied this way, it does not filter abusive requests. It filters out citizens who cannot afford to fight back.

No Exemption Has Been Identified

Your response does not identify any statutory provision under which this Section 9 analysis is exempt from disclosure. A Section 21 disregard is purely a procedural mechanism regarding whether a request will be processed; it does not render an underlying record exempt under Division 2 of Part II (Sections 27–41).

Applying Section 21 here creates an absurd result: a record that remains disclosable on its merits to the general public is barred uniquely to the individual who exercised their statutory right to file a complaint. If a third party or a private law firm were to submit an access request for this exact Section 9 analysis today, your Office could not approve a disregard under Section 21(1)(c)(ii) because that applicant would have no prior request history.

I originally sought this Section 9 analysis to examine the underlying record for my submission to the 2026 ATIPPA Statutory Review. While access was withheld, this disregard decision itself serves as compelling evidence of structural gaps within the current legislation.

Furthermore, because a Section 21 disregard attaches strictly to my personal request history, members of the Statutory Review Committee—or any other interested party reviewing my submission—remain fully entitled to submit an access request for this exact record themselves, as it remains a disclosable public document to everyone except the applicant who filed the original complaint. This structural issue forms part of my formal submission to Keri-Lynn Power.

To clarify the legal basis for your Office’s position—and to provide valuable insight for my formal submission to the Statutory Review Committee—I ask that you answer these two direct questions:

1. Could you please identify the specific statutory exemption provision under which the Section 9 analysis conducted by Government Services for GS-124-2025 is legally withheld from the original applicant?
2. If someone else submitted a request similar to GS-077-2026—say a journalist, a private law firm, or a curious citizen wanting to see the Department’s Section 9 analysis—would the OIPC still rule that their request is “unduly repetitive” on the grounds that the matter was already formally reviewed by this Office? Is this document now permanently blocked from the entire public simply because I filed a complaint regarding the redactions in GS-124-2025?

If no substantive exemption applies, this record remains disclosable on its merits, demonstrating that Section 21 was utilized to achieve an outcome the Act’s exemption provisions do not authorize.

Respectfully,

David Hanrahan

From: David Hanrahan [REDACTED]
Sent: Tuesday, August 4, 2026 1:53 PM

To: OIPC, Commissioner Commissioner@oipc.nl.ca

Subject: Re: Question Regarding Disregard of GS-077-2026 - Request for Explanation

Dear Commissioner Hatfield,

I am writing to follow up on my email of July 25 2026 regarding access request GS-077-2026 and the disregard of that request. I have not yet received a response.

I want to note that my submissions to the 2026 ATIPPA Statutory Review are now complete and will be submitted to Keri-Lynn Power shortly. Those submissions include a detailed account of the GS-077-2026 disregard and its structural implications for citizen access rights under the Act.

The two questions at the end of my July 25 email remain unanswered. I would very much appreciate a response to those two questions before I finalize my submissions as your answers or the absence of them will be directly relevant to what the Statutory Review Committee reads. If you are able to identify the specific statutory exemption provision under which the section 9 analysis is withheld from me as the original applicant and clarify whether a journalist or law firm requesting the same document today would face the same disregard that would be genuinely useful information for the review committee to have on record.

I look forward to your response.

Regards
David Hanrahan

From: OIPC, Commissioner Commissioner@oipc.nl.ca

Sent: August 11, 2026 1:29 PM

To: David Hanrahan [REDACTED]

Subject: RE: Question Regarding Disregard of GS-077-2026 - Request for Explanation

Dear Mr. Hanrahan,

You filed a complaint with this Office that resulted in our Report A-2026-014. Clearly you were not satisfied with the outcome. As you know, there was a statutory right to appeal following issuance of the public body's response to that report, which you did not avail of. Your subsequent request, which was disregarded with approval by this Office, was, in my view, an attempt to conduct your own investigation/litigation of the outcome, rather than using the appeal process provided by the Act. Your subsequent request attempts to continue to pursue the outcome that you would prefer to see by attempting to re-litigate it on your own terms. In that sense it is both repetitive and systematic. This is an abuse of the right of access in accordance with 21(1)(c). You also had the option to appeal the Department's decision to disregard your request, which you did not avail of.

If you receive a judicial decision, you do not get to continue to argue the matter before the same judge. You must file an appeal to the next level of court. The complaint process at the Office of the Information and Privacy Commissioner is a quasi-judicial process. While I am happy to, and have tried to, explain our processes to you, my office does not have unlimited resources to

continue to debate the outcome of a matter that you are not happy about but have chosen not to appeal.

I do not intend to reply to any further correspondence from you on this matter.

Kerry Hatfield She/Her
Information and Privacy Commissioner
Office of the Information and Privacy Commissioner
20 Crosbie Place
St. John's, Newfoundland and Labrador
(709) 729-6309

From: David Hanrahan [REDACTED]
Sent: Tuesday, August 11, 2026 4:23 PM
To: OIPC, Commissioner Commissioner@oipc.nl.ca
Subject: Re: Question Regarding Disregard of GS-077-2026 - Request for Explanation

Dear Commissioner Hatfield,

Thank you for your response. While I would have appreciated direct answers to my two specific questions—which were intended to provide the Statutory Review Committee with valuable insight—I want to briefly clarify two points for the record, as this correspondence will be included in my formal submission to the 2026 ATIPPA Statutory Review.

You characterized GS-077-2026 as an attempt to re-litigate the outcome of the complaint. With respect, that characterization is not accurate. Re-litigation means arguing the same issue before the same decision-maker to achieve a different result. That is not what GS-077-2026 was.

GS-077-2026 was an access request filed with Government Services under Section 8(1) of *ATIPPA, 2015*. It asked for the record Government Services created during its statutory obligation to conduct a Section 9 public interest analysis before applying a discretionary exemption to access request GS-124-2025, along with related internal communications between the department and its ATIPP coordinators regarding that analysis. That record was created by Government Services, not by this Office, and it was created before any complaint was filed. I was never provided with it at any stage of the complaint process. I was not asking this Office to change its report, nor was I filing another complaint. I was asking Government Services to produce administrative records created during its own statutory process—records I had never been given.

You also wrote the following:

“If you receive a judicial decision you do not get to continue to argue the matter before the same judge. You must file an appeal to the next level of court. The complaint process at the Office of the Information and Privacy Commissioner is a quasi-judicial process.”

With respect, that analogy does not apply to GS-077-2026 for a precise reason: I did not return to the OIPC to argue the complaint again. I filed a new access request with Government Services for a record under Section 8(1) of *ATIPPA, 2015*. That is not “arguing before the same judge.”

That is walking into a different public body and requesting a record under a statutory right that exists independently of any complaint or judicial process. A citizen who loses a court case does not forfeit their statutory right to file access requests. A citizen who receives an unfavorable OIPC report does not lose their right to access records under Section 8(1). Those are parallel, independent statutory rights. The complaint process and the access right exist within the same Act, but exercising one does not extinguish the other.

Finally, I want to be explicit about why I requested that record. I told your Office directly that I was building a case study for the 2026 ATIPPA Statutory Review. Seeing whether Government Services documented its Section 9 analysis at all would have provided the review committee with direct evidence of how departments fulfill their statutory obligations in practice during active access requests. That is a legitimate purpose under Section 3(1)(a) of the Act, which explicitly states that a core purpose of the legislation is to ensure citizens have the information required to participate meaningfully in the democratic process. My efforts are focused on documenting operational gaps and proposing legislative amendments so other citizens do not face this hurdle. That is not re-litigation—that is participating in the exact democratic process this Office encouraged citizens to join.

Accessing a government record to provide factual evidence to a statutory review of the very Act that governs that record is not an abuse of the right of access. It is the Act working precisely as the Legislature intended.

This response is submitted for the record only, to ensure the Statutory Review Committee has a complete and accurate account of what GS-077-2026 was and why it was filed.

Regards,

David Hanrahan

Note: The two direct questions asked in the email of July 25, 2026 for the benefit of the Statutory Review Committee were not answered by the Commissioner in any of her responses.

ANNEX B — Correspondence Regarding the Complaint That Produced Report A-2026-014

This annex reproduces the exchange with the OIPC Investigations Branch on the day Report A-2026-014 was issued. OIPC File 0005-072-26-012; Public Body File GS-124-2025.

From: Walsh, LoriAnn LoriAnnWalsh@oipc.nl.ca

Sent: May 28, 2026 11:02 AM

To: [REDACTED]

Cc: OIPC, Commissioner Commissioner@oipc.nl.ca; Bourne, Rebekkah M

RebekkahMBourne@oipc.nl.ca **Subject:** Notice of OIPC Report A-2026-014 - Our File: 0005-072-26-012; Public Body File: GS-124-2025

Good morning

Attached is Report A-2026-014 from the Office of the Information and Privacy Commissioner following our investigation of an access complaint (Our File: 0005-072-26-012; Public Body File: GS-124-2025). Also attached is a letter from the Director of Research & Quality Assurance Sean Murray which outlines the next steps in this process.

If you have any questions or concerns, please contact our Office.

Respectfully,

Lori Ann

Lori Ann Walsh She/Her
Access and Privacy Analyst
Office of the Information and Privacy Commissioner
Investigations Branch
(709) 729-6341

From: David Hanrahan [REDACTED]

Sent: Thursday, May 28, 2026 1:03 PM

To: Walsh, LoriAnn LoriAnnWalsh@oipc.nl.ca

Cc: OIPC, Commissioner Commissioner@oipc.nl.ca; Bourne, Rebekkah M

RebekkahMBourne@oipc.nl.ca **Subject:** Re: Notice of OIPC Report A-2026-014 - Our File: 0005-072-26-012; Public Body File: GS-124-2025

Hello Lori Ann,

Thank you for the formal report on complaint OIPC0005-072-26-012. I have two specific questions about the report that I raised in my submissions before the report was issued and that were not addressed in the report itself.

1. Department's Section 9 Analysis

In my submissions I asked this Office to provide me with a summary of the Department's section 9 analysis for section 29 specifically including what public interest factors the Department weighed and why the threshold was found not to be met. I noted that I had never been provided with the Department's reasoning and could not meaningfully respond to a conclusion I had never seen. That request was not addressed in my submissions exchange with you and it is not addressed in the report. The report concludes the burden has not been met without explaining why my four specific accountability arguments individually and collectively failed to meet even the relaxed burden acknowledged in Mastropietro. Could you please advise why a summary of the Department's section 9 analysis was not provided to me before the report was issued and why the report does not engage with each of my four specific arguments.

2. Secondary Search Period

The report notes that the secondary search was conducted using the keywords Auditor and General for the period February 26 2025 to December 13 2025. In my submissions I specifically raised that the 2023 Auditor General financial statement audit report which identified income support overpayments as the third largest receivable category and recommended accounts receivable write-offs was released in February 2024 not February 2025. The search period therefore excluded the entire year following the release of the most relevant Auditor General report. Internal Government Services communications about those findings during 2024 are the most likely responsive records in the entire request and were never searched. I raised this specific point in my submissions before the report was issued. The report does not address it. Could you please explain why the search period was accepted as reasonable when it excluded the year following the release of the most directly relevant Auditor General report.

Could you please advise whether Report A-2026-014 will be published on this Office's website. I ask because I intend to reference specific findings in the report in my submission to the statutory review of ATIPPA 2015 being conducted by Keri-Lynn Power and would like to be able to direct the reviewer to the published report directly.

Kind regards,
David

From: Walsh, LoriAnn LoriAnnWalsh@oipc.nl.ca
Sent: Thursday, May 28, 2026 1:27 PM
To: David Hanrahan [REDACTED]
Cc: Bourne, Rebekkah M RebekkahMBourne@oipc.nl.ca
Subject: RE: Notice of OIPC Report A-2026-014 - Our File: 0005-072-26-012; Public Body File: GS-124-2025

Good afternoon

Further to the email below, the notification of report letter outlines your options. The Report is a public document, and you can use it in any way you wish. The Report will be available online at: ATIPPA, 2015 Access Reports - Office of the Information and Privacy Commissioner

This Office considers the investigation closed. No further correspondence will be provided.

Thank you
Lori Ann

Lori Ann Walsh She/Her
Access and Privacy Analyst
Office of the Information and Privacy Commissioner
Investigations Branch
(709) 729-6341

Note: Neither of the two questions asked in the email of May 28, 2026 at 1:03 PM was answered. The interval between that email and the closure of the file was twenty-four minutes.

ANNEX C — Complete Correspondence Regarding GS-077-2026 with Government Services ATIPP Coordinators

This annex reproduces the correspondence between David Hanrahan and the ATIPP coordinators responsible for the Department of Government Services regarding access request GS-077-2026, together with the two letters issued by the Department.

Access Request GS-077-2026, received by Government Services July 3, 2026

I am submitting an access to information request under Part II of the Access to Information and Protection of Privacy Act, 2015.

This request relates to records created by the Department of Government Service during the processing of access request GS-124-2025.

Records Requested:

- The Section 9 public interest analysis conducted by the Department in connection with access request GS-124-2025, including any records, notes, or worksheets showing what public interest factors the Department considered when applying discretionary exemptions to that request, and why it concluded the public interest threshold was not met.
- Any records showing the Department's assessment of whether the public interest in disclosure of the records requested in GS-124-2025 outweighed the reasons for applying any discretionary exception, including but not limited to Section 29.
- Any briefing notes, memoranda, or communications (including emails and internal instant messages) within the Department or between the ATIPP Office and departmental program areas regarding the Section 9 public interest analysis conducted in connection with GS-124-2025.

Timeframe: December 15, 2025, to February 24, 2026.

Note on the Nature of This Request: This request seeks records created by the Department during its own processing of access request GS-124-2025 under its statutory obligations under ATIPPA, 2015. The Section 9 public interest analysis was required to be conducted by the Department before it could apply any discretionary exemption to GS-124-2025. This is a request for records of the Department's own decision-making process under the Act, created prior to the filing of the OIPC complaint on February 24, 2026. For greater certainty, I am not requesting records held by the OIPC, nor am I requesting records created in response to the OIPC complaint process; I am requesting only records held by the Department in its own files relating to its own initial statutory obligations in processing GS-124-2025.

From: ATIPP-GS ATIPP-GS@gov.nl.ca

Date: Fri 2026-07-17 8:13 AM

To: [REDACTED]

Subject: GS-077-2026 – Advisory Letter

Attachment: GS-077-2026 - Advisory Response.pdf (162 KB)

Hello,

Please see the attached advisory response letter for your request (GS-077-2026).

Thank you,

Vincent

Access to Information Coordinator
Executive Council - ATIPP Office
Government of Newfoundland & Labrador
4th Floor East Block, Confederation Building
PO Box 8700, St. John's, NL, A1B 4J6

Attachment — Advisory Response, GS-077-2026

Government of Newfoundland and Labrador — Government Services

July 17, 2026

Dear Applicant:

Re: Your request for access to information under Part II of the **Access to Information and Protection of Privacy Act, 2015** [Our File #: GS-077-2026]

On July 3, 2026, Government Services (GS) received your request for access to the following records: *[request text as set out above]*

Section 15 of the Access to Information and Protection of Privacy Act, 2015 (“the Act”) requires that we provide you with an advisory response regarding your request in writing no later than 10 business days after we receive your request.

Please be advised that GS is processing your request. A final response will be provided to you by July 31, 2026.

If you have any further questions, please contact me by email at ATIPP-GS@gov.nl.ca.

Sincerely,

Vincent Au
ATIPP Coordinator

From: ATIPP-GS ATIPP-GS@gov.nl.ca

Date: Tue 2026-07-21 5:09 PM

To: David Hanrahan [REDACTED]

Subject: ATIPP Final Response Letter - GS-077-2026

Attachment: GS-077-2026 - Final Response to Applicant - Disregard with OIPC Approval.pdf (282 KB)

Good evening,

Please see the attached final response letter in relation to your ATIPP request dated July 3, 2026. If you have any questions, please do not hesitate to contact me.

Warm regards,
Andrea

Andrea Lawlor, B.A., B.S.W. (Hons), CIAPP-C

Senior Access to Information Coordinator

Executive Council - ATIPP Office

Responsible for the Department of Government Services and Department of Tourism, Culture, Arts and Recreation t: (709) 729-5198 | e: AndreaLawlor@gov.nl.ca

Attachment — Response to Applicant, Disregard with approval from OIPC (Form 4E)

Government of Newfoundland and Labrador — Department of Government Services

July 21, 2026

Dear Applicant:

Re: Your request for access to information under Part II of the **Access to Information and Protection of Privacy Act, 2015** [Our file # GS-077-2026]

On July 3, 2026, The Department of Government Services (GS) received your request for access to the following records/information: *[request text as set out above]*

Please be advised that a decision has been made by the Deputy Minister for Government Services, with approval from the Information and Privacy Commissioner, to disregard your request in accordance with section 21(1):

21. (1)(c)(ii) The head of a public body may, not later than 5 days after receiving a request, apply to the commissioner for approval to disregard the request where the head is of the opinion that the request would amount to an abuse of the right to make a request because it is unduly repetitive and systematic.

Given your history of similar requests, the OIPC has found that the current request repeats issues that have already been formally reviewed by their Office and addressed by the Department.

Please be advised that you may ask the Information and Privacy Commissioner to review the processing of your access request, as set out in section 42 of the Access to Information and Protection of Privacy Act, 2015 (“the Act”). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner.

The address and contact information of the Information and Privacy Commissioner is as follows:

Office of the Information and Privacy Commissioner
4th Floor, Beothuck Building, 20 Crosbie Place
P.O. Box 13004, Stn. A, St. John’s, NL A1B 3V8
Telephone: (709) 729-6309 | Toll-Free: 1-877-729-6309 | Email: commissioner@oipc.nl.ca

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the Act.

Please be advised that this request may be published on the Completed Access to Information Requests website. Requests will be posted when possible, but no sooner than three business days after a response is sent electronically, or five business days where a response is sent by mail. Please note that requests for personal information will not be posted online.

If you have any further questions, please contact me by email at ATIPP-GS@gov.nl.ca.

Sincerely,

[signed]

Andrea Lawlor, BA, BSW (Hons), CIAPP-C
Senior Access to Information Coordinator

Statutory extract appended to the same letter, page 4:

42.

- (8) A complaint shall not be filed under this section with respect to
- (a) a request that is disregarded under section 21;
 - (b) a decision respecting an extension of time under section 23;
 - (c) a variation of a procedure under section 24; or
 - (d) an estimate of costs or a decision not to waive a cost under section 26.
-

From: ATIPP-GS ATIPP-GS@gov.nl.ca

Date: Tue 2026-07-21 5:10 PM

To: David Hanrahan [REDACTED]

Subject: RE: ATIPP - GS-077-2026

Good evening,

Please accept my apologies for any confusion caused by the previous email. Kindly disregard that correspondence, as it was sent in error. My coordinator was unaware of the circumstances and was following the applicable legislative timelines. Thank you for your understanding.

Warm regards,
Andrea

Andrea Lawlor, B.A., B.S.W. (Hons), CIAPP-C
Senior Access to Information Coordinator
Executive Council - ATIPP Office
Responsible for the Department of Government Services and Department of Tourism, Culture, Arts and Recreation t: (709) 729-5198 | e: AndreaLawlor@gov.nl.ca

Note: The correspondence retracted by the email of July 21, 2026 at 5:10 PM is the advisory response of July 17, 2026 reproduced above, which stated that the request was being processed and that a final response would be provided by July 31, 2026.

ANNEX D — Disclosed Record Relied On in Gap 5

This annex reproduces the record released by the Department of Government Services in response to access request GS-124-2025, at page 46 of the disclosure package. Redactions shown are those applied by the Department. The subject line, the attachment line, and the opening portion of the message were withheld under Section 30(1)(a).

From: Smith, Gina
Sent: Wednesday, April 26, 2023 10:46 AM
To: King, Cynthia
Cc: Nunes, Paul
Subject: [REDACTED] [withheld — s. 30(1)(a)]
Attachments: [REDACTED] [withheld — s. 30(1)(a)]

Hi Cynthia

[REDACTED] [withheld — s. 30(1)(a)] We frequently receive new accounts to initiate collection activity that are passed the limitation period of 6 years. In some cases the balance may only be partly statute barred if there are multiple overpayments that make up the balance. **We need direction on these accounts urgently.** It has been our practice to write-off the statute barred portion and proceed with collection activity on the rest.

Does anyone at CSSD review files for limitations issues before they are transferred to collections? Is anyone responsible for writing off statute barred accounts when the

overpayments are over 6 years? These type of accounts are mostly clients that switch from Income Support to a pension but there are others as well.

Can we set up a meeting to discuss further?

Thanks

Gina

Gina Smith

Director of Collections

Digital Government and Service NL

Government of Newfoundland and Labrador

2nd. Floor, West Block

P.O. Box 8700

St. John's, NL A1B 4J6

Note: The bolded emphasis on the words “We need direction on these accounts urgently” appears in the original record as released. The portions shown as black bars were redacted by the Department under Section 30(1)(a) of ATIPPA, 2015 and were not disclosed to me. Gap 4 of this submission addresses the absence of any independent verification of records withheld under Section 30.

ANNEX E — Correspondence with the OIPC Regarding an Earlier Disregard, April 2026

This annex reproduces correspondence from the Office of the Information and Privacy Commissioner concerning the disregard of two earlier access requests made to Treasury Board Secretariat. It is included because it records the Office's written position on the practicality of the Trial Division remedy, on filing revised requests after a disregard, and on answering an applicant's questions about a disregard decision. It concerns a different file from GS-077-2026.

From: Murray, Sean seanmurray@oipc.nl.ca

Sent: Wednesday, April 29, 2026 4:12 PM

To: [REDACTED]

Dear Mr. Hanrahan,

Unfortunately we will not be able to provide additional details in response to your questions.

You certainly have every right to file a court appeal regarding the decision to disregard your requests. As the oversight body for access to information, we want to see individuals get whatever information they are entitled to in as timely a manner as possible. To give you some insight into the disregard process, it is often the case that a person whose request has been

disregarded will subsequently go back to the public body with a revised request, and perhaps later another request if the scope of the information they are seeking is too broad for one request. Even when we approve an application to disregard a request, we will often encourage the public body to invite the requester to file a new, revised request. If obtaining information in the most timely manner possible is important to you, I would encourage you to consider that approach. I can tell you that at any given time our office is involved in various matters in court, and based on that experience getting a court date before 2027 could be difficult at this point, whereas filing a new access request should result in a much more timely outcome.

Best regards,

Sean Murray

Director of Research and Quality Assurance

Office of the Information & Privacy Commissioner

5th Floor, Beothuck Building

20 Crosbie Place

St. John's, NL

Tel: (709) 729-6309

Note: Report A-2026-014, the report at the centre of Gaps 1, 2 and 5 of this submission, was written and signed by the same official under authority delegated by the Commissioner pursuant to Section 103 of ATIPPA, 2015.

ANNEX F — Refusal of Access Request GS-065-2026

This annex reproduces the final response of the Department of Government Services to access request GS-065-2026, the request that preceded and was narrowed into GS-077-2026. The refusal was not complained of and was not appealed.

Government of Newfoundland and Labrador — Department of Government Services

Response to Applicant — Access Refused (Form 4C)

July 2, 2026

Dear Applicant:

Re: Your request for access to information under Part II of the **Access to Information and Protection of Privacy Act, 2015** [Our file # GS-065-2026]

On June 3, 2026, The Department of Government Services (GS) received your request for access to the following records/information:

■ I am requesting access to records held by the Department of Government Services.

This request relates to OIPC complaint OIPC0005-072-26-012 and Report A-2026-014 issued May 28 2026 by the Office of the Information and Privacy Commissioner.

Records Requested

I am requesting all records held by Government Services relating to that complaint, including but not limited to the following.

1. All submissions, representations, and correspondence sent by Government Services to the OIPC in connection with complaint OIPC0005-072-26-012.
2. The Department's section 9 public interest analysis submitted to the OIPC, including any records showing what public interest factors the Department considered and why it concluded the public interest threshold was not met.
3. Any internal communications within Government Services about the preparation of submissions to the OIPC for this complaint, including emails, briefing notes, or draft submissions.
4. For the avoidance of doubt I am not requesting records held by the OIPC. I am requesting only records held by Government Services in its own files.

Timeframe: January 1 2025 to the date this request is received.

Please be advised that a decision has been made by the Deputy Minister for Government Services that access to these records has been refused in accordance with section 41(c), which is a mandatory exception to disclosure as specified in the Access to Information and Protection of Privacy Act, 2015 ("the Act"). The responsive records relate to the department's response to a complaint filed with the Office of the Information and Privacy Commissioner (OIPC). They are directly connected to the OIPC's investigatory functions; therefore, have been withheld in their entirety.

Total Number of Pages

Section Cited

330

s. 41(c)

Section 41 — Disclosure of House of Assembly Service and Statutory Office Records

41. The Speaker of the House of Assembly, the officer responsible for a statutory office, or the head of a public body shall refuse to disclose to an applicant information
 - (c) in the case of a statutory office as defined in the House of Assembly Accountability, Integrity and Administration Act, records connected with the investigatory functions of the statutory office.

[The letter then sets out the applicant's right to ask the Commissioner to review the processing of the request under Section 42 within 15 business days, the contact information for that Office, and the right to appeal directly to the Supreme Court Trial Division within 15 business days under Section 52.]

Sincerely,

[signed]

Andrea Lawlor, BA, BSW (Hons), CIAPP-C Senior Access to Information Coordinator

Note: The timeframe of GS-065-2026 ran from January 1 2025 to June 3 2026 and therefore captured records created during the OIPC complaint. GS-077-2026, filed the following day, ran from December 15 2025 to February 24 2026, ending on the date the complaint was filed. Because a Section 42 complaint route is available in respect of a refusal under Section 41(c), the notice above correctly advised of it. The notice of disregard later issued for GS-077-2026, reproduced at Annex C, advised of the same route where Section 42(8)(a) prohibits it.