

NEWS RELEASE

For immediate release

November 14, 2018

Democracy in the Digital Age – Nova Scotia’s Information and Privacy Commissioner releases 2017-2018 Annual Report

HALIFAX - Today, Catherine Tully, Nova Scotia’s Information and Privacy Commissioner, released her annual report for 2017-2018. “The growing prevalence of fake news and the use of unregulated personal data create serious challenges for our democracy,” says Commissioner Tully. “Citizens need a reliable source of information about their government in order to actively participate in democracy. The integrity of our democratic institutions also requires that privacy laws are capable of protecting our personal information in the digital age.”

Strong, modern access to information and privacy laws that are up to the task of defending citizens’ democratic rights could be the antidote to these threats citizens face. Access to information laws provide citizens with the very thing that the current news cycle cannot – real, hard government documentation that provides facts. Access to information requests that resulted in citizens gaining information to help separate fact from fiction ranged from in-custody deaths to expense scandals to contract cancellations.

But Nova Scotia’s access to information laws are not always up to the task. In the past year, the Office of the Information and Privacy Commissioner for Nova Scotia (OIPC) handled 2600 matters and based on that experience, the Commissioner identifies a number of concerning trends. Citizens complained most frequently about the failure of public bodies to fully disclose information requested.

The report also highlights two concerning trends with respect to government departments’ access to information practices:

- Departments were the least likely to accept review report recommendations among all public bodies.
- Departments resolved the fewest reviews through informal resolution compared with other public bodies.

With respect to privacy protection, the Commissioner notes that the new European privacy law sets a new bar for modern privacy protections. In order to do business with Europeans, Nova Scotians will have to meet these higher standards which include mandatory breach notification, mandatory privacy impact assessments and very high fines for non-compliance.

The growing use of interoperable databases was also the subject of an extensive investigation by the OIPC in the past year. That investigation identified a critical vulnerability in the monitoring of broad access, multi-custodian health information databases.

Nova Scotia has fallen behind. Our laws do not do enough to prepare us for the challenges of the digital age. The Commissioner once again recommends extensive improvements to ensure that citizens have a robust and meaningful right to access government information and protection of privacy standards capable of protecting personal information in the digital age.

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BACKGROUNDER

November 14, 2018

About the Information and Privacy Commissioner for Nova Scotia

The Information and Privacy Commissioner for Nova Scotia is also known as the Review Officer and the Privacy Review Officer and is appointed as the impartial oversight authority under the *Freedom of Information and Protection of Privacy Act*, the *Municipal Government Act*, the *Privacy Review Officer Act* and the *Personal Health Information Act*. The office was established in 1994 and is responsible for monitoring and overseeing compliance with these statutes by more than 400 public and municipal bodies and 26,000 health custodians.

Trends Identified in 2017-2018

In the past year, the OIPC handled 2600 matters and based on that experience, the report highlights a number of concerning trends. Citizens complained most frequently about the failure of public bodies to fully disclose information requested. Forty percent of appeals received by the OIPC related to a denial of access to records. Citizens frequently appealed the adequacy of efforts made to search for records.

The report also highlights two trends with respect to government departments' access to information practices:

- Departments were the least likely to accept review report recommendations among all public bodies.
- Departments resolved the fewest reviews through informal resolution compared with other public bodies.

Informal resolution means that matters are resolved more quickly and to the satisfaction of both parties. If matters are not informally resolved, they must proceed to a formal report by the Commissioner, where Departments are least likely to accept the Commissioner's recommendations. The financial burden then falls on citizens to appeal to the Nova Scotia Supreme Court when public bodies fail to accept the Commissioner's recommendations at this final stage.

The OIPC conducted a number of privacy breach investigations that highlighted concerning trends with the use of health databases. There is a dangerous and insidious culture of entitlement to view health records in some workplaces. The need to develop modern privacy protections to monitor health databases and ensure that they are secure has reached a critical point in Nova Scotia.



The report recommends modernizing Nova Scotia’s access to information and privacy laws to address many of these patterns. Improvements include:

- removing the application fee for access to information requests,
- strengthening the Commissioner’s powers including by granting the Commissioner order-making power,
- improving the time extension provisions,
- making privacy breach reporting mandatory,
- making privacy impact assessments mandatory,
- creating a prescribed entity responsible for monitoring and securing interoperable health databases, and
- extending the time for prosecuting offences.

Outreach and Education

More than 1300 Nova Scotians attended OIPC training in 2017-2018. We provided training on issues ranging from access and privacy basics, to how to manage a privacy breach to how to build a privacy management program. The OIPC commented on the access and privacy issues of various projects and technologies including ID scanning, facial recognition, street checks, sale of cannabis, video surveillance, smart cities and smart meters. We also created written guides and materials including Big Data Guidelines, PHIA Disclosures Without Consent and a series of tools for applicants on how to make an access to information request, how to file an appeal and FAQs.

2017-2018 By the Numbers

Since 2013, the number of new reviews and complaints received by the OIPC has doubled. Overall, our caseload has increased seven-fold. The major element of the increase is files initiated by public bodies. This includes requests for consultation and time extension requests under all four laws and mandatory reporting under the *Personal Health Information Act*.

Between 2014 and 2017, we reduced our wait time for reviews and complaints from six years to one year. We have more than doubled the number of files we resolve each year. However, because of the extraordinary and sustained increase in our caseload, wait times have begun to rise again, increasing to two years this year and projected to reach three years next year.

Total number of matters handled by the OIPC:	2679	(100%)
Number of reviews and complaints received:	200	(7%)
Number of files initiated by public bodies:	1217	(45%)
Outreach & Education	165	(6%)
Inquiries (telephone calls)	1097	(41%)

