



**Freedom of Information and Protection of Privacy  
Review Office**

**Carmen Stuart, Acting Freedom of Information and Protection of Privacy  
Review Officer/Deputy Head**

**Statement of Mandate  
2014 - 2015**

April 3, 2014

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**Freedom of Information and Protection of Privacy  
Review Office**

**Message from the Acting Review Officer/Deputy Head  
Carmen Stuart**

**March 24, 2014**

This Statement of Mandate is being prepared in keeping with our legislative mandates. While the search for the next Review Officer is in progress, my goal as the acting Review Officer is to provide stability to this Office and the Review process during this period of transition with a focus on core activities and process improvement.

The mandates of the Freedom of Information and Protection of Privacy Review Officer are contained in four statutes: the *Freedom of Information and Protection of Privacy Act* [“*FOIPOP Act*”], *Part XX of the Municipal Government Act* [“*MGA*”], the *Privacy Review Officer Act* [“*PRO*”] and the *Personal Health Information Act* [“*PHIA*”], referred to collectively as the *Acts*.

Our priorities for 2014-2015 will be to fulfil our statutory obligations under existing legislation and meet the challenges that will inevitably continue to arise under our newest statute – *PHIA*. The FOIPOP Review Officer has a relatively small budget to meet all the legal obligations set out under the governing legislation requiring our resources to be strategically distributed. Our goal continues to be to process all Requests for Review accurately, judiciously and in a timely manner while advocating for additional resources and legislative amendments that will assist the Review Office to fully recognize all four mandates in the most efficient and effective way possible.

It is neither appropriate nor necessary for an independent non-partisan oversight body to consider the priorities of any government in fulfilling its statutory mandates. However, regarding whether there is any compatibility with government’s priorities, the Review Office continues to be committed to “responsible fiscal management” and fully believes “helping all Nova Scotians meeting their fullest potential” is consistent with the purposes of the *Acts*.

*PHIA* mandates new independent oversight responsibilities for the Review Office with respect to access to and privacy protection of personal health information. We expect *PHIA* will present a major challenge for the Review Office and custodians as the public and custodians gain familiarity with this new legislation. The issues surrounding access and privacy with respect to health records, in particular electronic health/medical records, are complex and unique.

A valuable feature of *PHIA* is the discretion for custodians and the Review Office to refuse to process a request if it is frivolous, vexatious or an abuse of process. The Review Officer would like to see this same provision be included in the other governing statutes and has made this

request of government. We are hopeful that this initiative will move forward in the coming year enabling the Review Officer to not accept Reviews where individuals have another more appropriate avenue of redress or where the Request for Review is frivolous, vexatious or made in bad faith.

This Statement of Mandate for 2014-2015 is publicly available and is intended to assist the public to understand the mandates, priorities and performance of the Review Officer. Completing the Statement of Mandate complements but does not replace the Review Officer's statutory duty to table an Annual Report with the House of Assembly.

Respectfully submitted,

Carmen Stuart, CIAPP – M  
Acting Freedom of Information and Protection of Privacy Review Officer

Receipt Acknowledged

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Honourable Lena Metlege Diab  
Attorney General and Minister of Justice

## **Freedom of Information and Protection of Privacy Review Officer’s Mandates**

The Freedom of Information and Protection of Privacy Review Officer provides independent impartial oversight of decisions, actions or failures to act by public bodies and custodians under the *Freedom of Information and Protection of Privacy Act, Part XX* of the *Municipal Government Act*, and the *Personal Health Information Act* and of privacy matters under the *Privacy Review Officer Act* and the *Personal Health Information Act* [“Acts”].

The Review Office investigates and mediates access requests and privacy complaints from individuals and/or groups who feel public bodies or custodians have not respected their access to information rights or their privacy rights, as provided for in the governing *Acts*. After an investigation, if the matter is not resolved, the Review Officer may issue a public Report that will include Findings and Recommendations to the named provincial, municipal or local public body, or custodian to reaffirm, alter or modify its decision and to rectify its processes and practices with respect to access to information requests and/or protection of privacy.

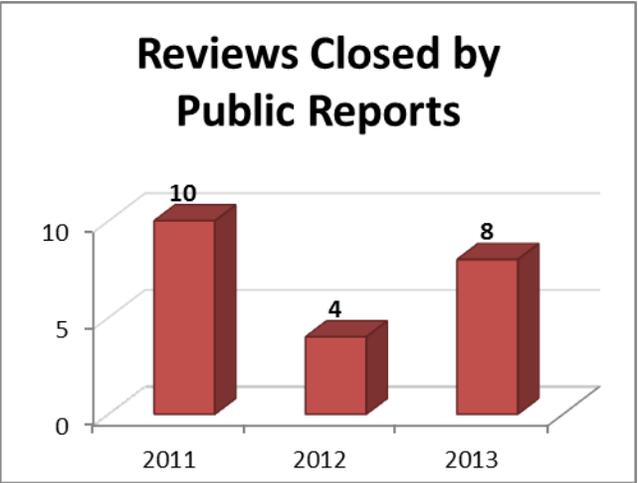
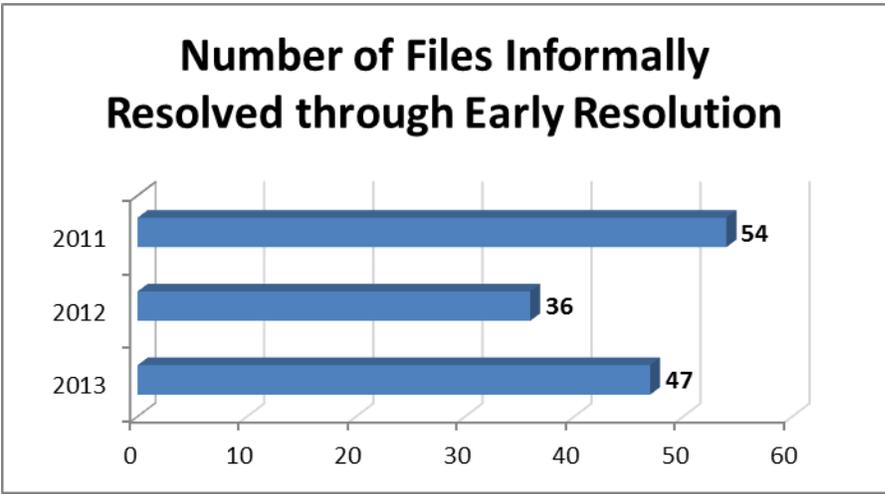
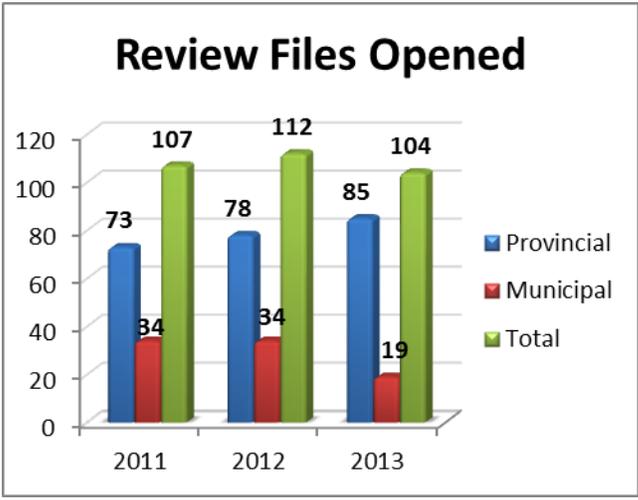
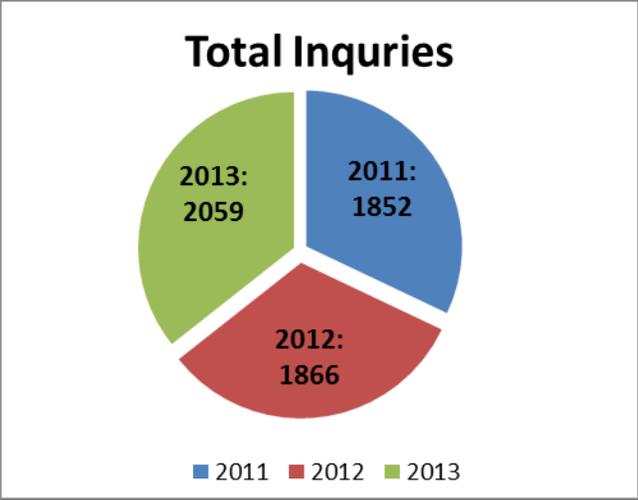
In addition, under the *PRO Act*, the Review Officer is empowered to monitor how privacy provisions are administered, initiate an investigation of privacy compliance, undertake research matters, inform/educate the public and, on request of a public body, provide advice and comments on privacy.

*PHIA* gives the Review Officer the statutory authority over custodians to conduct reviews of complaints arising from the access and privacy provisions, initiate an investigation of privacy compliance, undertake research matters, inform/educate the public and, on request of a custodian, provide advice and comments on privacy.

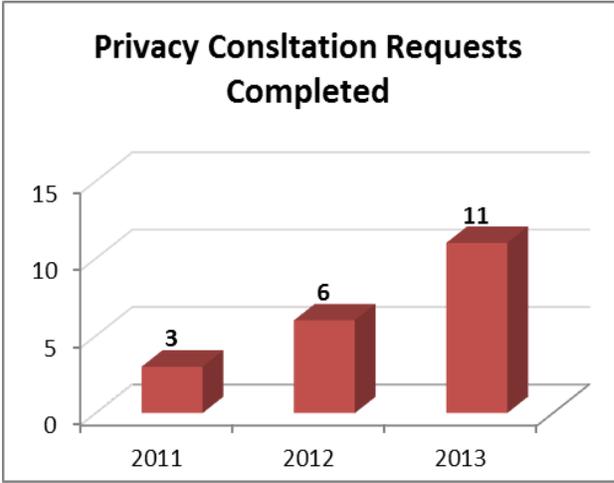
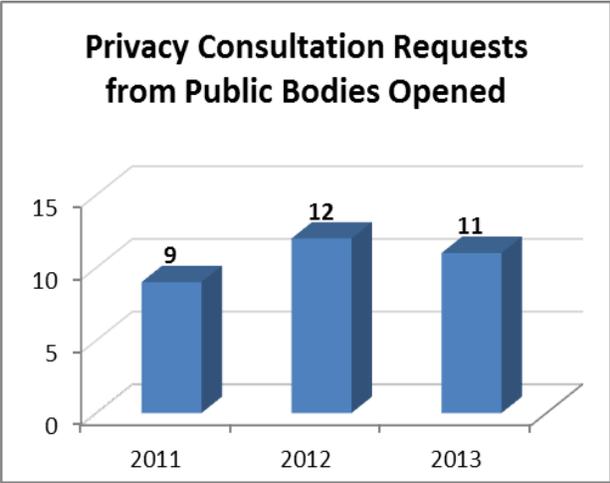
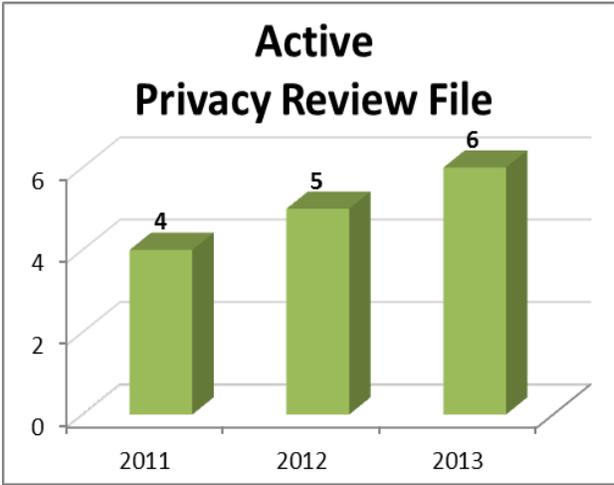
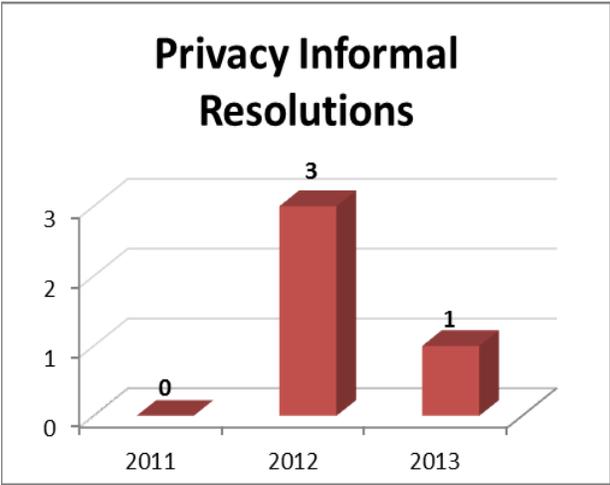
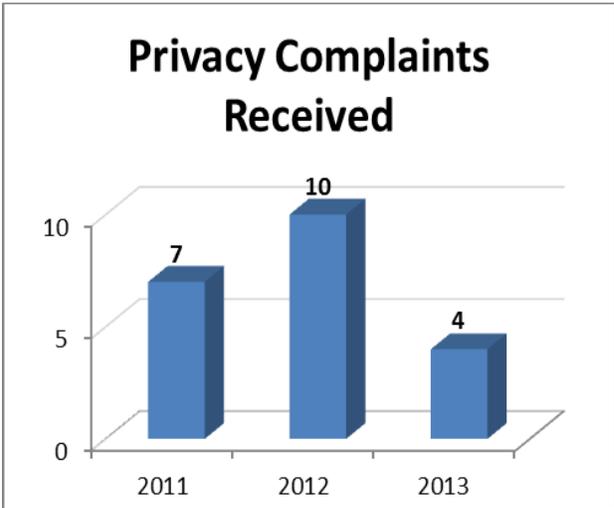
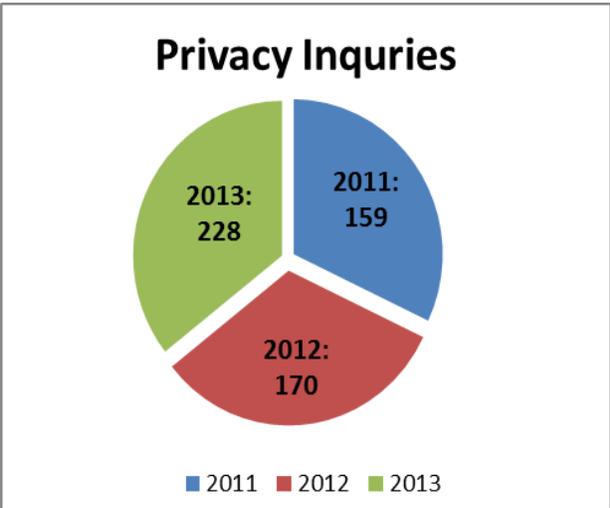
Municipalities were notified that new legislation will provide for independent oversight for privacy decisions made by municipalities at a date to be announced. This anticipated amendment will further expand the Review Officer’s mandate.

**Performance Measures**

<b>RIGHT TO ACCESS: Requests for Review of Public Body Access Decisions</b>				
<b>Outcome</b>	<b>Measure</b>	<b>Target : 2014 - 2015</b>	<b>Ultimate Target</b>	<b>Strategic Actions</b>
<p>Optimize service to the public as an accessible helpful resource.</p> <p>Developing respectful and productive relationships with public bodies' delegated decision makers.</p> <p>Encouraging all parties to apply precedents to the matter at hand thereby expediting early resolution of Requests for Review to better serve the public and public bodies</p> <p>Issuing informative and clear public and private Reports.</p> <p>Promote proactive disclosure and routine access policies and open government.</p>	<p>Respond to 100% of all inquiries about access and Reviews at Intake within 2 business days.</p> <p>Maintain the percentage of Review Requests resolved early in the process through informal resolution.</p> <p>Maintain the percentage of Review Reports relied upon by the Review Office team in negotiating and achieving informal resolutions during intake and investigations.</p>	<p>Continue to meet statutory requirement to respond to all inquiries and requests "forthwith."</p> <p>Maintain the percentage of informal resolutions.</p>	<p>Improved timelines for processing investigations.</p> <p>Strive to close more Review files by informal resolution.</p> <p>Strive to ensure the formal Review Reports are issued in a timely fashion when other avenues of resolution have been exhausted.</p>	<p>Increase public declarations by the Review Office of the importance of proactive disclosure and routine access policies.</p> <p>Explore educational learning opportunities for public bodies.</p> <p>Empower parties to a Review to actively participate in the Review by developing new resources for applicants such as Applicant's Responsibilities.</p> <p>Promote reliance on private Review Reports to close a Review where there is no possible benefit to the individual.</p> <p>Continue to promote amendments to the legislation to give the Review Officer discretion to refuse to conduct a Review.</p>



<b>RIGHT TO PRIVACY: Requests for Review of Privacy Complaints</b>				
<b>Outcome</b>	<b>Measure</b>	<b>Target : 2013 – 2014</b>	<b>Ultimate Target</b>	<b>Strategic Actions</b>
<p>Contribute to education of applicants, third parties and public bodies regarding the Privacy Review Officer as the statutory oversight body for privacy complaints under the <i>PRO Act</i> and <i>PHIA</i>.</p> <p>Open and receptive to all privacy consultation requests from public bodies.</p> <p>Privacy issues tracked through own-motion privacy investigations where circumstances deem it appropriate.</p>	<p>Provide comprehensive information to all privacy inquiries and conduct thorough investigations into all Privacy Requests for Reviews opened.</p> <p>Continue to improve and upgrade website in order to provide more information to the public.</p> <p>Monitor media and public reports on privacy to evaluate whether a privacy breach has occurred or a privacy issue has the potential to affect the public's privacy rights under the governing statutes.</p>	<p>100% of privacy investigations within our jurisdiction are opened and investigated.</p> <p>All privacy consultation requests from public bodies are opened.</p> <p>100% of all own motion investigations initiated and investigations are commenced.</p> <p>100% of all <i>PHIA</i> investigations that should be opened are investigated.</p>	<p>90 – 100 % of public body requests for privacy consultations accepted.</p> <p>100% of jurisdictional privacy complaints received opened and investigation commenced.</p> <p>100% of privacy inquiries are answered at Intake and appropriate referrals made.</p> <p>100% of all Privacy Request for Review files opened.</p>	<p>Pro-actively educate the public with respect to the Privacy Review Officer's statutory privacy oversight mandate.</p> <p>Pro-actively contact public bodies/custodians where a breach has been made public, or the Review Office becomes aware of the breach, to offer a privacy consultation.</p> <p>Provide a public explanation where discretion exercised under <i>PHIA</i> not to accept a Request for Review.</p>



<b>ACCESS AND PRIVACY: Consultation, Education and Outreach</b>				
<b>Outcome</b>	<b>Measure</b>	<b>Target : 2014 – 2015</b>	<b>Ultimate Target</b>	<b>Strategic Actions</b>
<p>The public is educated about the role of the Review Officer with respect to access and privacy.</p> <p>Health custodians see the FOIPOP Review Officer as a valuable resource in preparation for <i>PHIA</i>.</p>	<p>Plan at least one event to mark Right to Know Week.</p> <p>Hosting or supporting an event to mark Data Privacy Day.</p> <p>Engage in one educational event at the local, national or international level.</p> <p>Continue to offer to provide training about the Review Process for local/ municipal public bodies.</p> <p>Initiate or respond to at least two meetings or consultations with health custodians, health officials or other stakeholders.</p>	<p>Respond positively to all privacy consultation requests from public bodies.</p> <p>Continue to mark Right to Know Week in collaboration with all Canadian federal, provincial and territorial Commissioners and host at least one local Right to Know event.</p> <p>Attend one local, national or international access to information and/or privacy event.</p> <p>Host or support at least one event to mark Data Privacy Day.</p>	<p>Respond affirmatively to all appropriate requests for public education opportunities.</p>	<p>Initiate training opportunities for strategically identified public bodies.</p> <p>Develop a creative approach to fulfilling the statutory mandate of public education on privacy matters.</p> <p>Develop a strategy to engage the appropriate authorities to urge them to provide training or provide up-to-date on-line materials with respect to access to information and privacy under the <i>MGA</i>.</p> <p>Target specific consultation opportunities with the Department of Health and Wellness and other personal health information custodians during implementation of <i>PHIA</i>.</p>

**Budget Context for Freedom of Information and Protection of Privacy Review Officer**

	<b>2013-2014 Estimate</b>	<b>2013-2014 Forecast</b>	<b>2014-2015 Estimate</b>
<b>Program &amp; Service Area</b>	<b>(\$ thousands)</b>	<b>(\$ thousands)</b>	<b>(\$ thousands)</b>
<b>Gross Department Expenses</b>			
<b>Administration</b>	<b>\$560</b>	<b>\$565</b>	<b>\$565</b>
<b>Total Gross Departmental Expenses</b>	<b>\$560</b>	<b>\$565</b>	<b>\$565</b>
<b>Additional Information:</b>			
<b>Fees and Other Charges</b>	<b>None</b>	<b>None</b>	<b>None</b>
<b>Ordinary Recoveries</b>	<b>None</b>	<b>None</b>	<b>None</b>
<b>TCA Purchase Requirements</b>	<b>—</b>	<b>—</b>	<b>—</b>
<b>Provincial Funded Staff (FTEs)</b>	<b>6</b>	<b>6</b>	<b>6</b>