



**Office of the Information and Privacy Commissioner for Nova Scotia
Report of the Commissioner (Review Officer)
David Nurse**

REVIEW REPORT 25-04

June 6, 2025

Town of Mulgrave

Summary: The applicant made an access request to the Town of Mulgrave (public body) seeking payroll-related records and copies of video and audio security recordings from the public body's office for one day in October 2019. The payroll-related records were provided and are not at issue in this review. The public body did not provide any video or audio security recordings and explained that the cameras in the public body office do not record. The applicant asked the Office of the Information and Privacy Commissioner for Nova Scotia to review the public body's search efforts.

The Commissioner finds that the public body did not conduct an adequate search as required by law. The Commissioner recommends that the public body conduct an adequate search for the missing records, process any records that are located, and for any records not located, provide a response to the applicant describing the search efforts in detail. The Commissioner also recommends that the public body conduct an inquiry to determine if the use of cameras in the public body office is compliant with Nova Scotia's privacy laws.

INTRODUCTION:

[1] The applicant asked the public body for payroll records of the public body, and video and audio security recordings from the public body office on a specific date for specific hours of the day.

[2] The public body provided the applicant with a package of responsive records respecting the payroll-related records, but no video or audio recordings. When asked about the absence of video and audio recordings in the responsive records, the public body provided the following explanation:

Our [video surveillance] system's role is to control the air exchange handling system in the building. The system is not set up to record: it only provides real time monitoring. This is information we received from the company and should address part 2 of your request.

ISSUE:

[3] Did the public body meet its duty to assist the applicant by conducting an adequate search, as required by s. 467(1)(a) of *Part XX* of the *Municipal Government Act (MGA)*?

ANALYSIS:

Applicant has met burden of proof

[4] The initial burden of proof rests with the applicant, who must provide something more than an assertion that records exist.¹ In discharging this burden, the applicant must provide a reasonable basis for concluding that such records exist² and sufficient particulars³ to identify the records.

[5] The applicant provided photos of the cameras, and information that the building used for the public body office is a former school. The photos appear to confirm that cameras, which are similar in appearance to security cameras used in other school facilities in Nova Scotia, are installed inside and outside of the building. With respect to the former use of the facility as a school, this information is confirmed on the public body's website: "Mulgrave Town Hall is located at 459 Murray Street, Mulgrave in the former Mulgrave Memorial School building."⁴ The use of security cameras in schools in Nova Scotia was addressed by my predecessor Catherine Tully, as far back as 2017. The applicant stated that he was informed by former school employees that the cameras were installed for the purpose of recording students in public areas. This is hearsay and would be far more persuasive if it were coming directly from an individual with personal knowledge of the system. Nevertheless, I am persuaded that there is a reasonable basis to believe that records may exist, and that they would include audio and video recordings.

[6] When an applicant discharges their burden of proof, the burden then shifts to the public body to make "every reasonable effort" to locate the requested records. The public body's response should include a description of the business areas and record types searched (e.g., emails, physical files, databases), and identify the individuals who conducted the search (by position type). Also, the public body's response should include the time taken to conduct the search. If there is an explanation for why a record may not exist, it should be provided.⁵ These principles are further outlined in the OIPC's document: *Duty to Assist #2: Conducting an Adequate Search*.⁶ The test of whether the public body has met its burden is one of reasonableness, not perfection.⁷

¹ NS Review Report FI-11-76, *Nova Scotia (Community Services) (Re)*, [2014 CanLII 71241 \(NS FOIPOP\)](#), at para. 13.

² NS Review Report FI-11-76, *Nova Scotia (Community Services) (Re)*, [2014 CanLII 71241 \(NS FOIPOP\)](#), at para. 10.

³ Section 6(1)(b) of *FOIPOP*.

⁴ Town of Mulgrave, *Town Hall*, , online: <<https://www.townofmulgrave.ca/town-hall.html>>.

⁵ NS Review Report FI-11-76, *Nova Scotia (Community Services) (Re)*, [2014 CanLII 71241 \(NS FOIPOP\)](#), at paras. 13-14.

⁶ NS OIPC, *Duty to Assist #2: Conducting an Adequate Search* (February 2019), online: <<https://oipc.novascotia.ca/sites/default/files/publications/18-00070%20Search%20Guidelines%20%282019%2002%2025%29.pdf>>.

⁷ NS Review Report FI-12-77, *Department of Community Services (Re)*, [2013 CanLII 34083 \(NS FOIPOP\)](#) at p. 5. This principle was more recently cited in NS Review Report 21-05, *Department of Community Services (Re)*, [2021](#)

[7] The public body did not provide any submissions respecting the search that was conducted, nor did public body staff appear to engage meaningfully in our investigation.

Search was not adequate

[8] The public body did not conduct an adequate search.

[9] The requirement to conduct an adequate search arises out of the duty to assist provision in s. 467(1)(a) of the *MGA*, which states that the public body must make “make every reasonable effort to assist the applicant and to respond without delay to the applicant openly, accurately and completely.”

[10] The public body must do more than simply defer to the purpose of their “air exchange handling system,” and ask that the applicant accept that as a complete answer. The public body must conduct a search to determine if there are responsive records; if there are no records, they should state that definitively to the applicant and provide an explanation of how its search was conducted. If the answer is that there are no records because the surveillance system does not record, the public body should provide an explanation of how the cameras function within the air exchange handling system.

RECOMMENDATIONS:

[11] I recommend that, within 45 days of the date of this review report, the public body conduct a new search and inform the applicant of the outcome including the following:

- a. If no additional records are found, I recommend that the public body advise the applicant of this and provide a response to the applicant describing how the search was conducted, including the business areas and types of records searched, the accounts and folders searched, the keywords used in the search, the identity of the individuals who conducted the search (by position type), the time taken to conduct the search, whether any records related to the applicant’s request were destroyed and any existing explanation for why a record does not exist.
- b. If additional records are found, I recommend the public body issue the applicant a new decision and provide them with any records for which access is granted.

I have enclosed a copy of the OIPC’s document: *Duty to Assist #2: Conducting an Adequate Search*⁸ to assist the public body in its search efforts.

[12] I further recommend that, within 45 days of the date of this review report, the public body conduct an inquiry into all cameras in the public body office, and whether the existing use (whether they are recording or not) is compliant with Nova Scotia’s privacy laws. The OIPC has

[NSOIPC 5 \(CanLII\)](#). It was also recently affirmed by the Supreme Court of Nova Scotia in *Raymond v. Halifax Regional Municipality*, 2022 NSSC 68 (CanLII), at para. 27.

⁸ NS OIPC, *Duty to Assist #2: Conducting an Adequate Search* (February 2019), online: <https://oipc.novascotia.ca/sites/default/files/publications/18-00070%20Search%20Guidelines%20%282019%2002%2025%29.pdf>.

a document for public bodies called *Video Surveillance Guidelines*⁹ and I suggest the public body assess all current or proposed future use of surveillance cameras using these guidelines.

June 6, 2025

David Nurse
Information and Privacy Commissioner for Nova Scotia

OIPC File: 20-00077

⁹ NS OIPC, *Video Surveillance Guidelines* (December 2019), online:
<<https://oipc.novascotia.ca/sites/default/files/publications/Video%20Surveillance%20Guidelines%202019%2012%2004.pdf>>.