

April 23, 2021

Mr. Derek Bennett, Speaker
House of Assembly
Newfoundland and Labrador

Dear Mr. Bennett:

RE: Tabling of Document in Relation to the Bill 5

As undertaken during debate with respect to the Bill to Amend the *Access to Information and Protection of Privacy Act, 2015*, I herewith table correspondence from Mr. Michael Harvey, the Information and Privacy Commissioner, in relation to the Bill.

In his letter, Mr. Harvey indicated he had no concerns with the exemption of the Inquiry from the Act while the Inquiry is doing its work. However, he requested confirmation that the records in the custody and control of the Inquiry would come into the custody and control of the Department of Justice and Public Safety once the Inquiry had concluded. Departmental officials have confirmed with the Commissioner of the GSAR Inquiry that the custody and control of the records of the GSAR Inquiry will be assumed by the Department of Justice and Public Safety once the GSAR Inquiry is concluded and this confirmation has been communicated to Mr. Harvey. Once the Inquiry records are in the custody and control of the Department, the records would then be subject to the provisions of the Act as is the case with any record in the custody and control of the Government.

I trust this to be satisfactory.

Sincerely,



JOHN HOGAN, QC
Minister of Justice and Attorney General
Attorney General

Enclosure

Stewart, Rhonda

From: Harvey, Michael
Sent: Tuesday, April 20, 2021 11:03 AM
To: Kelly, Tara
Cc: OIPC, Commissioner; Murray, Sean; Mercer, Jennifer
Subject: Re: Correspondence re: Review of ATIPPA Bill

Many thanks Tara.

All the best,
Michael

Sent from my iPhone

On Apr 20, 2021, at 11:01 AM, Kelly, Tara <tarakelly@gov.nl.ca> wrote:

Michael,

We've consulted with the Commissioner and have confirmed his intention that, following the conclusion of the Public Inquiry With Respect to Ground Search and Rescue for Lost and Missing Persons, Inquiry records will be forwarded in the Department of Justice and Public Safety, thereafter to be subject to ATIPPA in the usual manner.

I trust this is satisfactory,

Tara Kelly

Assistant Deputy Minister
Public Safety and Emergency Services
Department of Justice and Public Safety
Government of Newfoundland and Labrador

From: Harvey, Michael <MichaelHarvey@oipc.nl.ca>
Sent: Friday, April 16, 2021 3:29 PM
To: Kelly, Tara <tarakelly@gov.nl.ca>
Cc: OIPC, Commissioner <Commissioner@oipc.nl.ca>; Murray, Sean <seanmurray@oipc.nl.ca>; Mercer, Jennifer <JenniferMercer@gov.nl.ca>
Subject: RE: Correspondence re: Review of ATIPPA Bill

Thanks Tara. We'd certainly appreciate you confirming that with Judge Iglorte, but otherwise our concerns are satisfied.

Have a good weekend,
Michael

Michael Harvey
Information and Privacy Commissioner
Tel: (709) 729-6309

<image001.png>

From: Kelly, Tara <tarakelly@gov.nl.ca>
Sent: Friday, April 16, 2021 12:50 PM
To: Harvey, Michael <MichaelHarvey@oipc.nl.ca>
Cc: OIPC, Commissioner <Commissioner@oipc.nl.ca>; Murray, Sean <seanmurray@oipc.nl.ca>; Mercer, Jennifer <JenniferMercer@gov.nl.ca>
Subject: RE: Correspondence re: Review of ATIPPA Bill

Michael,

Thank you for your quick response. I believe the Commissioner would have final say, but yes, it is our intention is that once the Inquiry concludes, the documents would pass on to JPS and then be managed by the dept. as departmental records as per typical processes, including access requests for same.

Tara Kelly

Assistant Deputy Minister
Public Safety and Emergency Services
Department of Justice and Public Safety
Government of Newfoundland and Labrador

From: Harvey, Michael <MichaelHarvey@oipc.nl.ca>
Sent: Friday, April 16, 2021 12:12 PM
To: Kelly, Tara <tarakelly@gov.nl.ca>
Cc: OIPC, Commissioner <Commissioner@oipc.nl.ca>; Murray, Sean <seanmurray@oipc.nl.ca>
Subject: RE: Correspondence re: Review of ATIPPA Bill

Tara,

We have reviewed the Bill forwarded yesterday as well as the letter sent from Jennifer this morning. We have no concerns with the exemption of the Inquiry from ATIPPA while it is doing its work. However, we recall that when we were consulted on the similar amendment regarding the Muskrat Falls Inquiry, we were advised that following the conclusion of the Inquiry that the records would be housed in the Department of Justice and subject to ATIPPA. I note from Jennifer's letter that "while this proposed amendment exempts the Inquiry and records in its possession, GNL records will continue to be accessible as per the normal request process under ATIPPA". Is it your intention that, with this Inquiry as well, the records will pass into the possession of JPS once it is finished its work?

If the intent of the exclusion of these records from ATIPPA is to avoid prejudicing the work of the Inquiry, presumably that concern would no longer be relevant after the Inquiry is finished its work. I note that such records housed in JPS would be subject to ATIPPA including all appropriate exceptions to access within.

All the best,
Michael

Michael Harvey
Information and Privacy Commissioner
Tel: (709) 729-6309

<image001.png>

From: Delaney, Kim G. (Justice) <kimd@gov.nl.ca>
Sent: Friday, April 16, 2021 9:23 AM
To: Harvey, Michael <MichaelHarvey@oipc.nl.ca>

Cc: Mercer, Jennifer <JenniferMercer@gov.nl.ca>
Subject: Correspondence re: Review of ATIPPA Bill

Sent on behalf of Jennifer Mercer, Deputy Minister and Deputy Attorney General, Justice and Public Safety

Good Morning,
Please see the attached correspondence, for your attention and review.

All the best,
Kim

Kim Delaney
Executive Assistant
Deputy Minister's Office
Dept of Justice and Public Safety
Newfoundland and Labrador
Tel: (709) 729-2872