

April 23, 2019



Re: Your request for access to information under Part II of the *Access to Information and Protection of Privacy Act, 2015* [Our File #: PRE/27/2019]

On April 8, 2019 the Premier's Office received your request for access to the following records/information:

"February 20, 2019 Information Note on the topic of JPS - Adult Diversion Pilot Program (Program)."

I am pleased to inform you that a decision has been made by the Chief of Staff of the Premier's Office to provide access to the requested information.

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* (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.

Contact information for the Information and Privacy Commissioner is as follows:

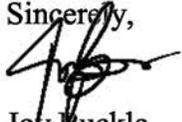
Office of the Information and Privacy Commissioner
2 Canada Drive
P. O. Box 13004, Stn. A
St. John's, NL. A1B 3V8

Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive this response, pursuant to section 52 of the *Act* (a copy of sections 42 and 52 of the *Act* have been enclosed for your reference). This response will be published as outlined on the Completed Access to Information Requests website. (<http://atipp-search.gov.nl.ca/>)

If you have any further questions, please feel free to contact me by telephone at (709)729-3570 or by e-mail at joybuckle@gov.nl.ca.

Sincerely,

A handwritten signature in black ink, appearing to be 'Joy Buckle', written over a horizontal line.

Joy Buckle
ATIPP Coordinator
Enclosure

Access or correction complaint

42.(1) A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.

(2) A complaint under subsection (1) shall be filed in writing not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16(2).

(3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.

(4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.

(5) The commissioner may allow a longer time period for the filing of a complaint under this section.

(6) A person or third party who has appealed directly to the Trial Division under subsection 52(1) or 53(1) shall not file a complaint with the commissioner.

(7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.

(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.

(9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.

Direct appeal to Trial Division by an applicant

52. (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42, the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.

(2) An appeal shall be commenced under subsection (1) not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16(2).

(3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.

(4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant is notified of the commissioner's refusal under subsection 45(2).

Information Note
Department of Justice and Public Safety

Title: Adult Diversion Pilot Program (Program)

Issue: To provide information about the Program.

Background and Current Status:

- The Program is a post-charge alternative to the traditional court process for individuals eighteen (18) years and older who commit certain offences.
- The Program is for a one-year period and covers areas serviced by the Provincial Court in Stephenville and Corner Brook (but not the circuit courts which operate therefrom).
- The Program seeks to:
 - provide victims with the opportunity to actively participate in a process directed toward achieving a successful resolution to the incident;
 - develop initiatives which promote responsible, pro-social behavior on the part of the alleged adult offender and which are also consistent with the protection of society;
 - reduce the possibility of the offender repeating their criminal behavior;
 - provide options for improving efficiency and effectiveness in the handling of cases brought to the Province's criminal justice system; and
 - offer an option to the criminal justice system that is visible, accountable and accessible to offenders, victims and the community.

Analysis:

- Eligibility for admission to the Program is first determined by a crown attorney where s/he is satisfied that alternative measures would be appropriate, having regard to the needs of the person alleged to have committed the offence and the interests of society and of the victim. Consideration for admission to the Program is based upon:
 - (i) sufficient evidence to support a criminal charge;
 - (ii) offender being eighteen (18) years or older at the time of the offence;
 - (iii) offender fully and freely consenting to participate; and
 - (iv) offender accepting responsibility for the offence.
- The following offences are eligible for the Program:
 - (i) Any straight summary conviction offences or those hybrid offences for which the Crown has elected to proceed by summary conviction; and
 - (ii) Any other offence, that in the opinion of the Crown Attorney, would likely result in an absolute or conditional discharge being imposed if the matter proceeded to sentencing;
- The following offences are not eligible for the Program:
 - (i) Offences which resulted in bodily harm to the victim;
 - (ii) Intimate partner violence offences;
 - (iii) Sexual violence offences;
 - (iv) Impaired driving offences;
 - (v) Offences having a mandatory minimum sentence; and
 - (vi) Offences with child victims.
- Excluded offences may be considered for Adult Diversion in exceptional circumstances with the prior approval of the Director of Public Prosecutions.

- The victim of the offence is notified of the decision to proceed with alternative measures through Victim Services or by a crown attorney if Victim Services is not engaged. Adult Probation is responsible for meeting with the offender and signing an alternative measures contract.
- A combination of measures may be used in the contract, depending on the circumstances and needs of the offender, along with availability and accessibility of the chosen program:
 - a. Counselling as recommended by the probation officer, including programming offered by the John Howard Society or other community agency;
 - b. Programming, including online programming, designed to provide the offender with insight or information with respect to the effect of criminal behaviour;
 - c. A letter of apology;
 - d. Review of a statement outlining the impact of the offence on the victim, if the victim chooses to provide one;
 - e. Reparation for damage done to the victim, including the partial payment of the damage done (if the offender has the ability to pay);
 - f. Community service, if deemed appropriate;
 - g. Victim-offender discussion, provided both the victim and offender agree and an appropriate facilitator can be arranged;
 - h. A charitable donation to a community organization; and
 - i. Any other condition deemed appropriate by the Probation Officer in consultation with the Crown, victim and offender.
- Adult Probation provides a report to the crown attorney upon completion of alternative measures which results in a withdrawal of charges. If the offender does not complete the agreed upon measures, the crown attorney must decide whether to proceed with charges.
- The Program will be delivered within existing resources at JPS (i.e. Victim Services, Adult Probation, Family Justice Services, and Public Prosecutions).
- Mediators working with Family Justice Services Division will facilitate victim-offender discussions.

Action Being Taken:

- The Adult Diversion Pilot Program will commence on March 1, 2019.
- Prior to end date, the Program will be evaluated to determine whether it should continue and/or be expanded to other areas of the Province.

Prepared/Approved by: S. Ring/I. Hollet/J. Mercer, QC
Reviewed by: C. Osmond/C. Blundon, Cabinet Secretariat
Ministerial Approval: Received from the Hon. Andrew Parsons, QC

February 15, 2019

Cabinet Secretariat Comments:

- The authority for the Attorney General to establish this program is set out in paragraph 717 (1)(a) of the *Criminal Code*.
- JPS advise that the policies and procedures to support the program are in place. No training is required and those responsible for implementing it are aware of the March 1, 2019 target date.
- JPS has publically announced that it has been exploring initiatives such as the drug treatment court, bail supervision and adult diversion to keep people out of court, address access to justice matters and improve peoples' interactions with the justice system.