January 21, 2016

Dear [redacted]

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act [Our File #: SWSD/1/2016]

On January 7, 2016, the Department of Seniors, Wellness and Social Development received your request for access to the following records:

"...We visited Suzanne Brake’s office... What was on that request? What are they claiming we reported?"

The Access to Information and Protection of Privacy Act (ATIPPA) does not govern the release of information collected under the Adult Protection Act. The information you are seeking was collected under the Adult Protection Act, and, as such disclosure is governed by Section 29 of that Act. Pursuant to the provisions of this section we are unable to provide you with this information. The relevant sections of the ATIPPA and the Adult Protection Act have been attached for your information.

Please be advised that you may appeal this decision and ask the Information and Privacy Commissioner to review the decision. 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. Your appeal should identify your concerns with the request and why you are submitting the appeal.

The appeal should be addressed to the Information and Privacy Commissioner 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
If you have any questions, please contact me by telephone at (709) 729-6370 or by email at jennifertaylor@gov.nl.ca.

Sincerely,

[Signature]

Jennifer Taylor
ATIPP Coordinator
Access to Information and Protection of Privacy Act

Conflict with other Acts

7. (1) Where there is a conflict between this Act or a regulation made under this Act and another Act or regulation enacted before or after the coming into force of this Act, this Act or the regulation made under it shall prevail.

(2) Notwithstanding subsection (1), where access to a record is prohibited or restricted by, or the right to access a record is provided in a provision designated in Schedule A, that provision shall prevail over this Act or a regulation made under it.

(3) When the House of Assembly is not in session, the Lieutenant-Governor in Council may by order amend Schedule A, but the order shall not continue in force beyond the end of the next sitting of the House of Assembly

Schedule A

(a) sections 64 to 68 of the Adoption Act, 2013;
(b) section 29 of the Adult Protection Act;
(c) section 115 of the Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act;
(d) sections 69 to 74 of the Children and Youth Care and Protection Act;
(e) section 5.4 of the Energy Corporation Act;
(f) section 8.1 of the Evidence Act;
(g) subsection 24(1) of the Fatalities Investigations Act;
(h) subsection 5(1) of the Fish Inspection Act;
(i) section 4 of the Fisheries Act;
(j) sections 173, 174 and 174.1 of the Highway Traffic Act;
(k) section 15 of the Mineral Act;
(l) section 16 of the Mineral Holdings Impost Act;
(m) subsection 13(3) of the Order of Newfoundland and Labrador Act;
(n) sections 153, 154 and 155 of the Petroleum Drilling Regulations;
(o) sections 53 and 56 of the Petroleum Regulations;
(p) section 21 of the Research and Development Council Act;
(q) section 12 and subsection 62(2) of the Schools Act, 1997;
(r) sections 19 and 20 of the Securities Act;
(s) section 13 of the Statistics Agency Act; and
(t) section 18 of the Workplace Health, Safety and Compensation Act.
Adult Protection Act

Confidentiality

29. (1) A person employed in the administration of this Act shall maintain confidentiality with respect to all matters that come to his or her knowledge in the course of that person’s employment and shall not communicate the matters to another person, including a person employed by the government, except

(a) with the consent of the person to whom the information relates;

(b) where the disclosure is required by another Act of the province;

(c) for the purpose of complying with a subpoena, warrant or order issued or made by a court, person or body with jurisdiction to compel the production of information;

(d) where, in the opinion of a director, the disclosure is in the best interests of the person to whom the information relates;

(e) where the disclosure is necessary to the performance of duties or the exercise of powers under this Act;

(f) where the disclosure is to the next of kin of the adult in need of protective intervention, where that disclosure is, in the opinion of a director, in the best interests of the person to whom the information relates;

(g) where the disclosure is for research approved by a research ethics body; or

(h) for another purpose authorized by the regulations

and the information released under this section shall only be used for the purpose for which it was released.

(2) The department or an authority is not liable for damages caused to a person as a result of the release of information under subsection (1).

(3) A person shall be denied access to information where

(a) there are reasonable grounds to believe that the disclosure might result in physical, emotional or financial harm to that person or another person;

(b) where the disclosure would identify a person who made a report under section 12; or

(c) the disclosure could reasonably be expected to jeopardize an investigation under this Act or a criminal investigation.

(4) Where information excepted from disclosure under this section can reasonably be severed, a person who is otherwise permitted to receive information under this section shall be given the remainder of the information.

(5) A person has a right of access to information or records created or maintained respecting that person in the course of the administration of this Act except where

(a) that information would identify a person making a referral under section 12; or

(b) there are reasonable grounds to believe that the disclosure might result in physical, emotional or financial harm to that person or another person.