Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act (Our File #: TW/071/2016)

On September 28, 2016, the Department of Transportation and Works received your request for access to the following records:

Please provide all emails, documentation, briefing notes, and all other electronic or hard-copy material relating to or mentioning budget activism and activists, including but not limited to..." s. 40(1)

I am pleased to inform you that a decision has been made by the Deputy Minister of Transportation and Works to provide access to some of the requested information. In particular, access is granted to the following records:

- Electronic correspondence in the form of emails related to budget activism and activists as per outlined in your Access to Information request.

Access to the remaining records, and/or information contained within the records, have been refused in accordance with the following exceptions to disclosure, as specified in the Access to Information and Protection of Privacy Act (the Act):

31. (1)(c) – The head of a public body may refuse to disclose information to an applicant where the disclosure could reasonably be expected to reveal investigative techniques and procedures currently used, or likely to be used, in law enforcement.

31. (1)(l) – The head of a public body may refuse to disclose information to an applicant where the disclosure could reasonably be expected to reveal the arrangements for the P.O. Box 8700, St. John’s, NL, Canada, A1B 4J6
security of property or a system, including a building, a vehicle, a computer system or a communication system.

40. (1) – The head of a public body shall refuse to disclose personal information to an applicant where the disclosure would be an unreasonable invasion of a third party's personal privacy.

As required by 8(2) of the Act, we have severed information that is unable to be disclosed and have provided you with as much information as possible.

Please be advised that you may appeal this decision and ask the Information and Privacy Commissioner to review the decision to provide partial access to the requested information, as set out in section 42 of the Act (a copy of this section of the Act has been enclosed for your reference). 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 may 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

Please note a section of the records were redacted under Subsection 5(1)(m) – This Act applies to all records in the custody of or under the control of a public body but does not apply to a record relating to an investigation by the Royal Newfoundland Constabulary in which suspicion of guilt of an identified person is expressed but no charge was ever laid, or relating to prosecutorial consideration of that investigation. Therefore, records severed under this section of the Act are not subject for review by the Privacy Commissioner and can be appealed in the Supreme Court Trial Division.

You may appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the Act (a copy of this section of the Act has been enclosed for your reference).
Please be advised that responsive records will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Completed Access to Information Requests website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

If you have any further questions, please feel free to contact the undersigned by telephone at (709) 729-5351 or by e-mail at FrankWalsh@gov.nl.ca.

Sincerely,

Frank Walsh
ATIPP Coordinator
Department of Transportation and Works

Enclosures
Application

5. (1) This Act applies to all records in the custody of or under the control of a public body but does not apply to

(a) a record in a court file, a record of a judge of the Court of Appeal, Trial Division, or Provincial Court, a judicial administration record or a record relating to support services provided to the judges of those courts;

(b) a note, communication or draft decision of a person acting in a judicial or quasi-judicial capacity;

(c) a personal or constituency record of a member of the House of Assembly, that is in the possession or control of the member;

(d) records of a registered political party or caucus as defined in the House of Assembly Accountability, Integrity and Administration Act;

(e) a personal or constituency record of a minister;

(f) a record of a question that is to be used on an examination or test;

(g) a record containing teaching materials or research information of an employee of a post-secondary educational institution;

(h) material placed in the custody of the Provincial Archives of Newfoundland and Labrador by or for a person other than a public body;

(i) material placed in the archives of a public body by or for a person other than the public body;

(j) a record relating to a prosecution if all proceedings in respect of the prosecution have not been completed;

(k) a record relating to an investigation by the Royal Newfoundland Constabulary if all matters in respect of the investigation have not been completed;

(l) a record relating to an investigation by the Royal Newfoundland Constabulary that would reveal the identity of a confidential source of information or reveal information provided by that source with respect to a law enforcement matter; or

(m) a record relating to an investigation by the Royal Newfoundland Constabulary in which suspicion of guilt of an identified person is expressed but no charge was ever laid, or relating to prosecutorial consideration of that investigation.

(2) This Act
(a) is in addition to existing procedures for access to records or information normally available to the public, including a requirement to pay fees;

(b) does not prohibit the transfer, storage or destruction of a record in accordance with an Act of the province or Canada or a by-law or resolution of a local public body;

(c) does not limit the information otherwise available by law to a party in a legal proceeding; and

(d) does not affect the power of a court or tribunal to compel a witness to testify or to compel the production of a document.
Disclosure harmful to law enforcement

31. (1) The head of a public body may refuse to disclose information to an applicant where the disclosure could reasonably be expected to

(a) interfere with or harm a law enforcement matter;

(b) prejudice the defence of Canada or of a foreign state allied to or associated with Canada or harm the detection, prevention or suppression of espionage, sabotage or terrorism;

(c) reveal investigative techniques and procedures currently used, or likely to be used, in law enforcement;

(d) reveal the identity of a confidential source of law enforcement information or reveal information provided by that source with respect to a law enforcement matter;

(e) reveal law enforcement intelligence information;

(f) endanger the life or physical safety of a law enforcement officer or another person;

(g) reveal information relating to or used in the exercise of prosecutorial discretion;

(h) deprive a person of the right to a fair trial or impartial adjudication;

(i) reveal a record that has been confiscated from a person by a peace officer in accordance with an Act or regulation;

(j) facilitate the escape from custody of a person who is under lawful detention;

(k) facilitate the commission or tend to impede the detection of an offence under an Act or regulation of the province or Canada;

(l) reveal the arrangements for the security of property or a system, including a building, a vehicle, a computer system or a communications system;

(m) reveal technical information about weapons used or that may be used in law enforcement;

(n) adversely affect the detection, investigation, prevention or prosecution of an offence or the security of a centre of lawful detention;

(o) reveal information in a correctional record supplied, implicitly or explicitly, in confidence; or

(p) harm the conduct of existing or imminent legal proceedings.
(2) The head of a public body may refuse to disclose information to an applicant if the information

(a) is in a law enforcement record and the disclosure would be an offence under an Act of Parliament;

(b) is in a law enforcement record and the disclosure could reasonably be expected to expose to civil liability the author of the record or a person who has been quoted or paraphrased in the record; or

(c) is about the history, supervision or release of a person who is in custody or under supervision and the disclosure could reasonably be expected to harm the proper custody or supervision of that person.

(3) The head of a public body shall not refuse to disclose under this section

(a) a report prepared in the course of routine inspections by an agency that is authorized to enforce compliance with an Act; or

(b) a report, including statistical analysis, on the degree of success achieved in a law enforcement program unless disclosure of the report could reasonably be expected to interfere with or harm the matters referred to in subsection (1) or (2); or

(c) statistical information on decisions to approve or not to approve prosecutions.
Disclosure harmful to personal privacy

40. (1) The head of a public body shall refuse to disclose personal information to an applicant where the disclosure would be an unreasonable invasion of a third party's personal privacy.

(2) A disclosure of personal information is not an unreasonable invasion of a third party's personal privacy where

(a) the applicant is the individual to whom the information relates;

(b) the third party to whom the information relates has, in writing, consented to or requested the disclosure;

(c) there are compelling circumstances affecting a person's health or safety and notice of disclosure is given in the form appropriate in the circumstances to the third party to whom the information relates;

(d) an Act or regulation of the province or of Canada authorizes the disclosure;

(e) the disclosure is for a research or statistical purpose and is in accordance with section 70;

(f) the information is about a third party's position, functions or remuneration as an officer, employee or member of a public body or as a member of a minister's staff;

(g) the disclosure reveals financial and other details of a contract to supply goods or services to a public body;

(h) the disclosure reveals the opinions or views of a third party given in the course of performing services for a public body, except where they are given in respect of another individual;

(i) public access to the information is provided under the Financial Administration Act;

(j) the information is about expenses incurred by a third party while travelling at the expense of a public body;

(k) the disclosure reveals details of a licence, permit or a similar discretionary benefit granted to a third party by a public body, not including personal information supplied in support of the application for the benefit;

(l) the disclosure reveals details of a discretionary benefit of a financial nature granted to a third party by a public body, not including

(i) personal information that is supplied in support of the application for the benefit, or
(ii) personal information that relates to eligibility for income and employment support under the Income and Employment Support Act or to the determination of income or employment support levels; or

(m) the disclosure is not contrary to the public interest as described in subsection (3) and reveals only the following personal information about a third party:

(i) attendance at or participation in a public event or activity related to a public body, including a graduation ceremony, sporting event, cultural program or club, or field trip, or

(ii) receipt of an honour or award granted by or through a public body.

(3) The disclosure of personal information under paragraph (2)(m) is an unreasonable invasion of personal privacy where the third party whom the information is about has requested that the information not be disclosed.

(4) A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy where

(a) the personal information relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation;

(b) the personal information is an identifiable part of a law enforcement record, except to the extent that the disclosure is necessary to dispose of the law enforcement matter or to continue an investigation;

(c) the personal information relates to employment or educational history;

(d) the personal information was collected on a tax return or gathered for the purpose of collecting a tax;

(e) the personal information consists of an individual's bank account information or credit card information;

(f) the personal information consists of personal recommendations or evaluations, character references or personnel evaluations;

(g) the personal information consists of the third party's name where

(i) it appears with other personal information about the third party, or

(ii) the disclosure of the name itself would reveal personal information about the third party; or

(h) the personal information indicates the third party's racial or ethnic origin or religious or political beliefs or associations.
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).
Table of Contents:

- Electronic correspondence in the form of emails related to budget activism and activists as per outlined in your Access to Information request.
Thanks Robert.

Sent from my BlackBerry 10 smartphone on the Bell network.

Robert Escott
Director, Security Services

Audio attached...

VOCM Back Talk - Thu, June 09, 2016

SUSPENDED FROM HOUSE OF ASSEMBLY: "Gary Kay" is calling to talk about being suspended from the House of Assembly. He is part of a group called Free Newfoundland and he was just sitting on the end of a row when Mark Croft stood up to say his piece. Many others stood up to speak as well so at the end he stood too but there was only himself and Mark who were suspended. He comments on how disrespectful it seemed that members appeared to be not even paying attention to those who were in the House speaking.

VOCM - St. John's - Back Talk @ 02:14:00pm Duration: 00:10:00 Reporter: Pete Soucy
Ref Id: f31-8h7-9
He was escorted across the lobby to the elevators each (4) times as he even went out on front steps. No problems then.

Robert Escott
Director, Security Services

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I heard the interview noted below over the lunch hour. The individual claimed that he was not provided assistance when in the legislature and Confederation Bldg. and felt he was targeted by security because of where he was seated in the Gallery. He noted that security stood and watched as he struggled with gaining access through a door at the front of the building, and when he mentioned he was told to use the back door, but was provided no additional details. He also said he was only one of number of people involved in the outburst, but some others didn’t get banned. He felt discriminated against.

**VOCM 1pm News - Thu, June 09, 2016**

10 **HOA UPRISING**: One of two people suspended yesterday after an uprising in the public gallery at the House of Assembly says it appears if he was targeted by security staff. ["Gary Kay", Free Newfoundland]

VOCM - St. John's - 1pm News @ 01:02:44pm Duration: 00:00:54 Reporter: Conor McCann

**Ref Id: J6W-4X9-9**

**BRADLEY POWER**
MEDIA RELATIONS MANAGER
*Department of Transportation and Works*
709-729-1758, 699-1832
BradleyPower@gov.nl.ca
Potential copyright material

If you wish to obtain a copy please contact the ATIPP Office at (709) 729-7072 or atipoffice@gov.nl.ca.
PROTEST PLANNED TO CALL FOR GOVERNMENT RESIGNATIONS: Free NL is organizing another protest for this Wednesday at the Confederation Building to demand the resignation of Dwight Ball, Siobhan Coady, and Cathy Bennett. ["Mark Croft", Spokesperson for Free NL]

VOCM - St. John's - Morning Show @ 08:40:25am Duration: 00:03:30 Reporter: Meech Kean

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Protest April 29.
Just a update, watching live stream on cbc, about 700 persons at mall as of 1010 have not left yet
Wes