

*Right to Information and
Protection of Privacy*

2018-2019 Annual Report

Finance and Treasury Board

2018-2019 Annual Report
Right to Information and Protection of Privacy

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INTRODUCTION

The *Right to Information and Protection of Privacy Act* (RTIPPA) is a provincial law that came into force on September 1, 2010, replacing the Right to Information Act and the Protection of Personal Information Act. RTIPPA aims to strike a balance between the public's right to access information held by public bodies and a public body's obligation to protect confidential and personal information it holds or controls. It is based on the principles of transparency, accountability, and openness.

RTIPPA applies to most publicly funded bodies in New Brunswick including government departments and agencies, schools, universities, community colleges, health authorities, crown corporations, municipalities, municipal police forces and other local government bodies. RTIPPA does not apply to either federal bodies (e.g., the RCMP) nor to any private businesses or associations.

RIGHT TO INFORMATION

RTIPPA gives people the right to access information held or controlled by public bodies, subject to exceptions in the Act. Information requested may be about the business of a public body (general information), or personal about the applicant. Requests must be made and responded to in accordance with the Act. Public bodies have 30 business days¹ to respond to a request. In certain circumstances they may take up to 30 extra business days, or more than this with approval of the Integrity Commissioner

Information about RTIPPA requests received by government departments and agencies is tracked by departments in a database called the Right to Information Tracking System (RITS) owned and managed by the Information Access and Privacy Unit and then the Access to Information Unit. RITS includes: the name of the person making the request (applicant), the public body receiving the request, the type of request, the date the request is received, the information requested, the category of the applicant (consultant, interest group, law firm, media, Members of the Legislative Assembly, non-profit organization, other government and public), the type of response provided (granted in full or in part, denied, transferred etc.), response time extensions, the date of the response, and any complaints. This information provides the basis for annually reporting on access to information requests received by departments. The reporting period covered by this report is April 1, 2018, to March 31, 2019.

¹ As of April 1, 2018, the measure for time limits in RTIPPA changed from a calendar day to a business day. "Business day" is defined in the Act as a day other than a Saturday or a holiday as defined in the New Brunswick Interpretation Act.

PROTECTION OF PRIVACY

RTIPPA also protects an individual's right to information privacy² by:

- giving individuals a right to access, receive and request correction to their personal information, with some exceptions, in the custody or control of a public body; and
- setting rules, a public body must follow for collecting, using, disclosing, retaining, securing and accuracy of personal information. (These rules are based on internationally recognized principles of fair information practices.)

As of April 1st, this year the RTIPPA General Regulation includes new requirements for public bodies regarding privacy breaches; security arrangements to protect personal information; retention and disposal of personal information; and common or integrated service, programs, and activities.

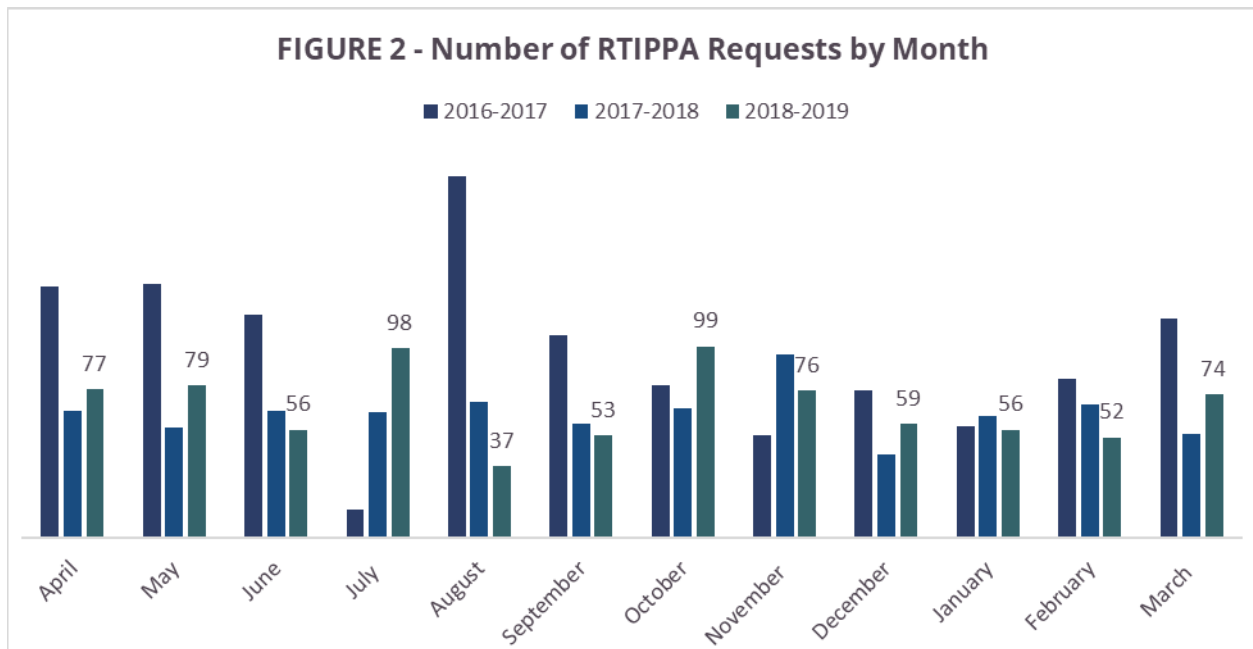
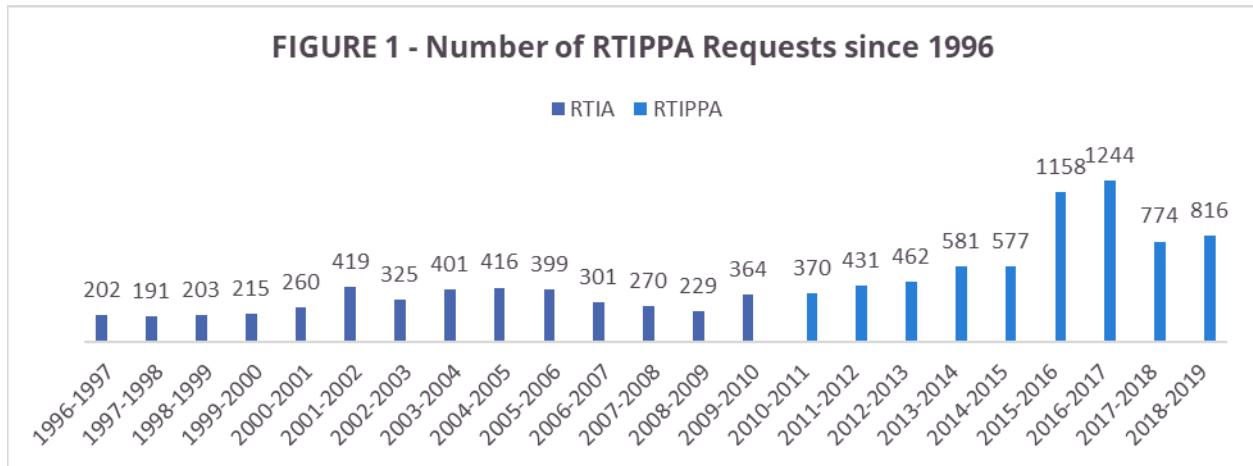
Apart from data in the RITS on the number of requests departments receive for personal information and correction of personal information, the Information Access and Privacy Unit does not collect data on departmental activities related to protection of information privacy.

² Information privacy is the basic right of individuals in a liberal democratic society to control their personal information, including who can access it and for what purpose.

RIGHT TO INFORMATION REQUESTS

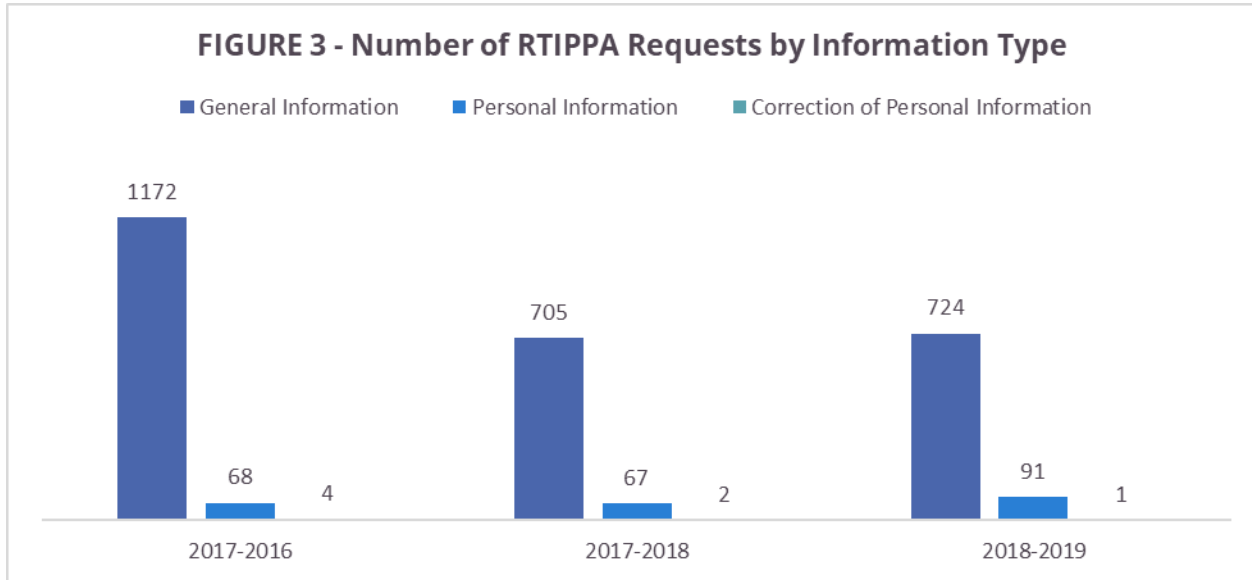
NUMBER OF REQUESTS

In 2018-2019, departments received a total of 816 RTIPPA requests. This is an increase of 5% compared to the total requests received in 2017-2018. The greatest number of requests, 99 (12% of total requests), was received in October 2018, followed by 98 requests (12% of total requests) in July 2018 and 79 requests in February 2019 (10% of total requests).



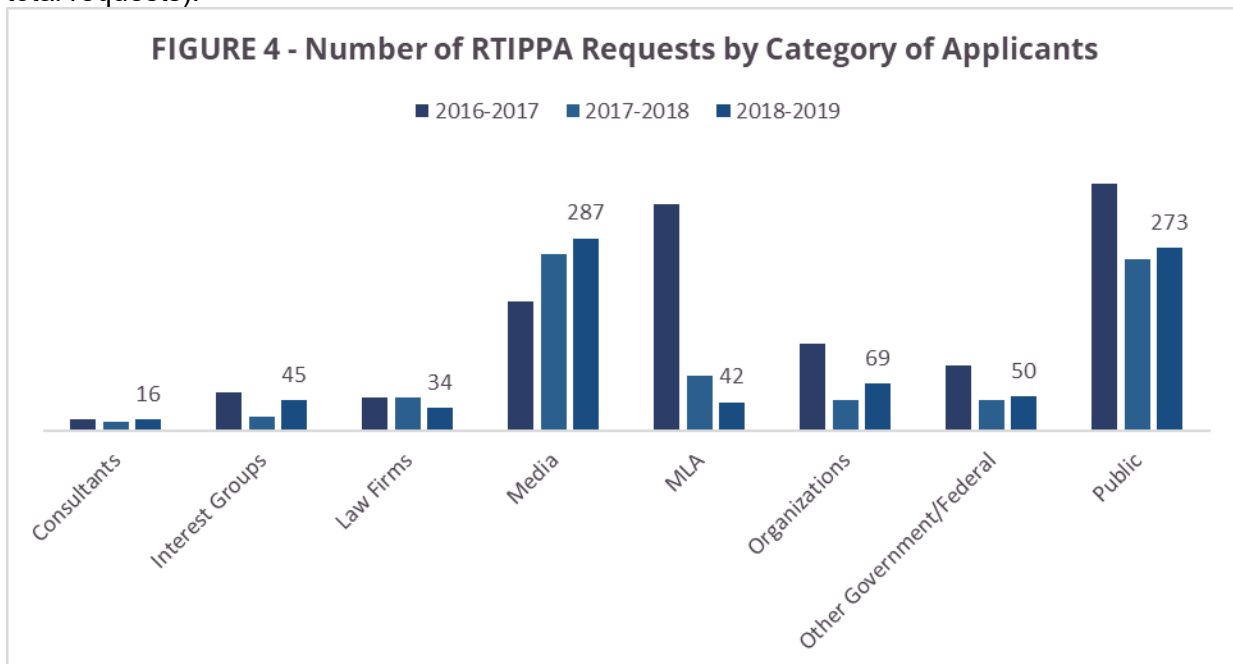
TYPE OF REQUESTS

Most RTIPPA requests in 2018-2019 were for general information at 724 requests (89% of total requests). There were 91 requests for personal information (11% of total requests) and 1 request (less than 1% of total requests) to correct personal information.



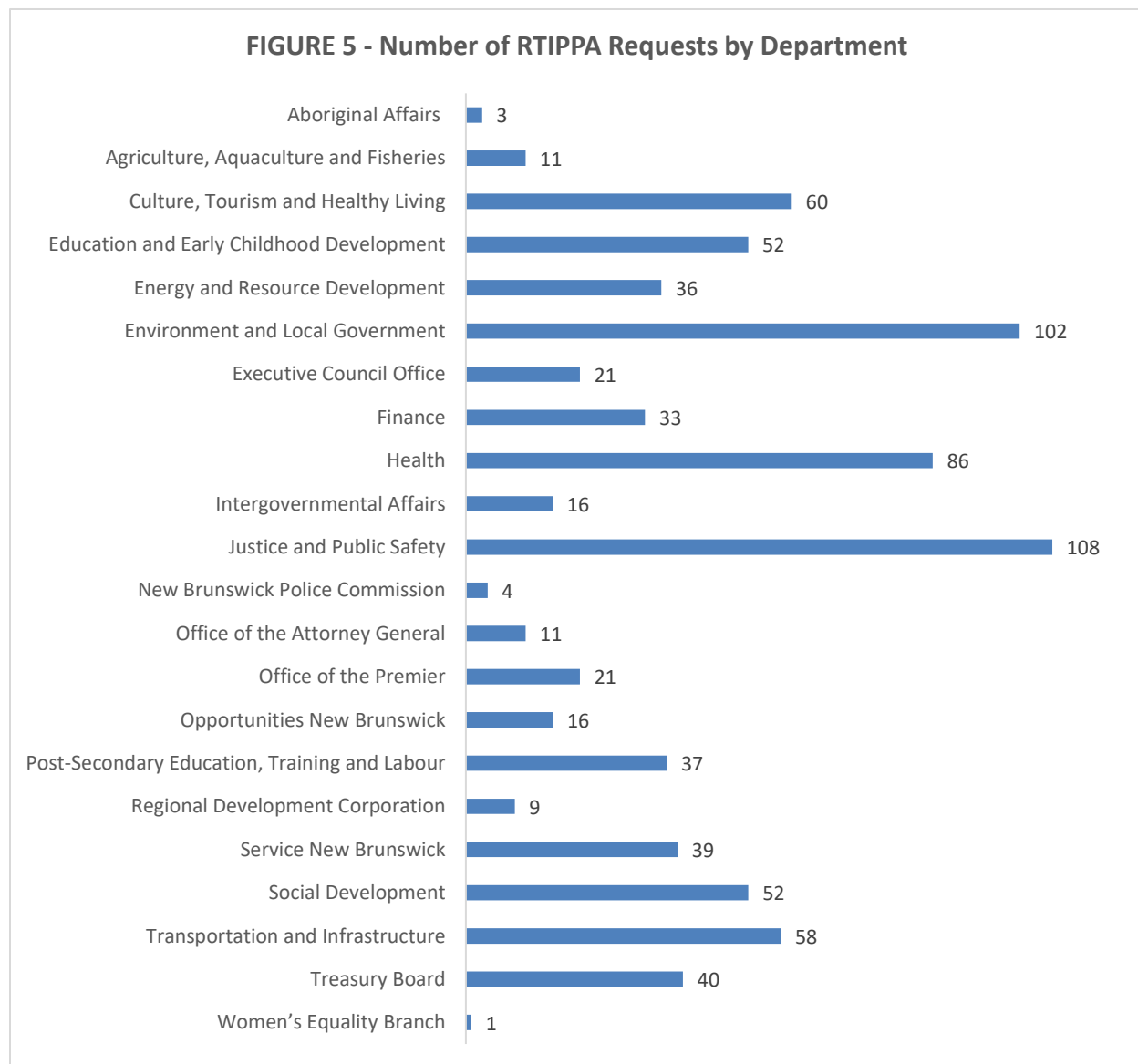
APPLICANTS

In 2018-2019, the media submitted the most RTIPPA requests to departments of any category of applicant with 287 requests (35% of total requests). Members of the public submitted the second most requests 273 (33% of total requests), followed by Organizations with 69 requests (8% of total requests).



RESPONDENTS

Justice and Public Safety³ received the most RTIPPA requests of any department at 108 requests (13% of total requests), followed by Environment and Local Government at 102 requests (13% of total requests) and the Department of Health at 86 requests (11% of total requests). These three departments received 37% of the total requests.



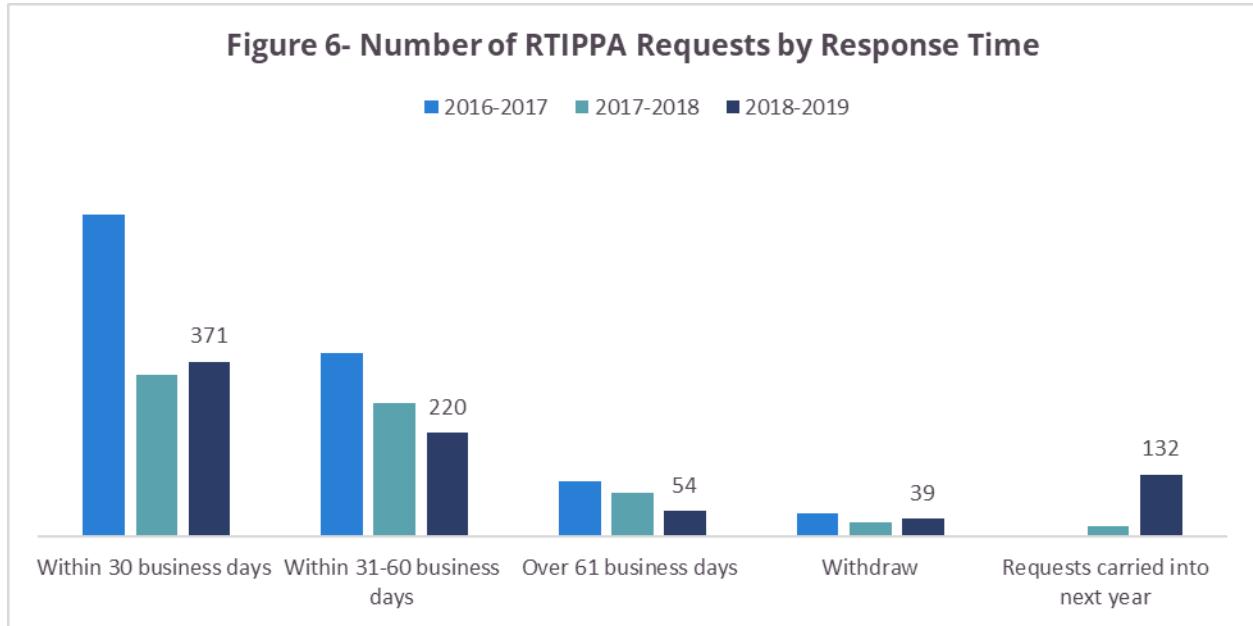
Government departments receiving the most Right to Information requests (three-year total, 2015-2018)

- | | |
|---|--|
| 1- Justice and Public Safety (Office of Attorney General) (413) | 4- Transportation and Infrastructure (230) |
| 2- Environment and Local Government (313) | 5- Office of the Premier (213) |
| 3- Health (277) | |

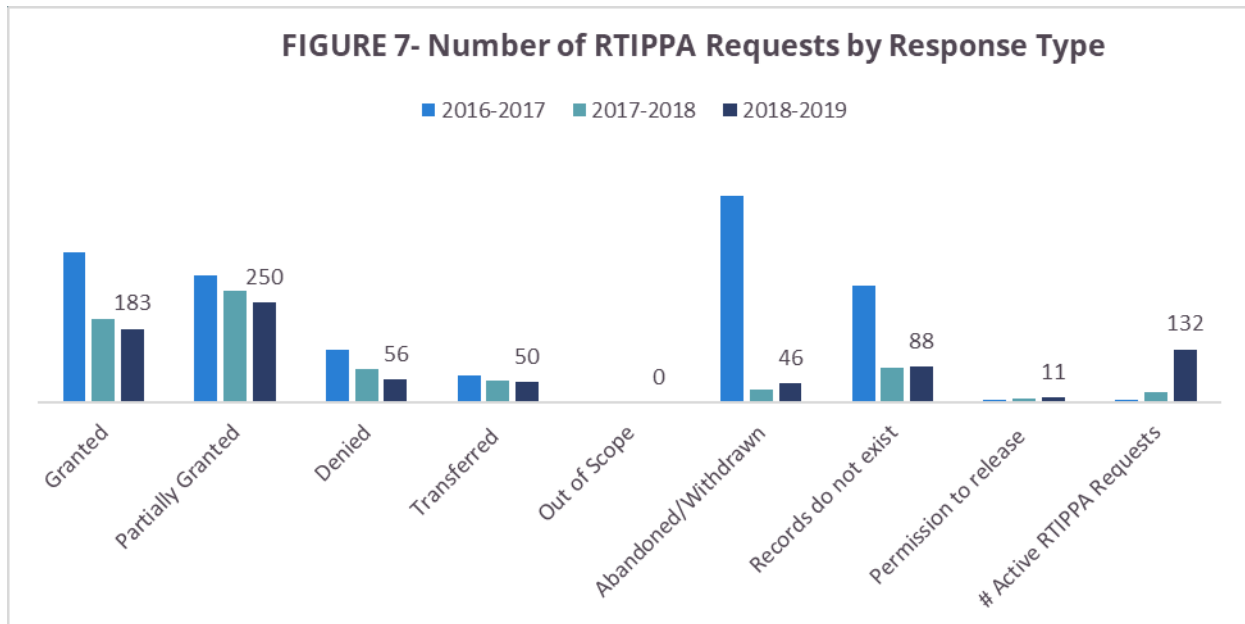
³ The Department of Justice and Public Safety existed until November 2018 when it was divided into 2 separate departments: the Department of Justice and Office of the Attorney General, and the Department of Public Safety. The Office of the Attorney General also existed as a separate department until November 2018.

RESPONSES TO RTIPPA REQUESTS

In 2018-2019, departments responded to 371 RTIPPA requests (45% of total requests) within 30 business days of receipt, 220 requests (27% of total requests) within 31 to 60 business days of receipt and 54 requests (7% of total requests) more than 60 business days after the date of receipt. Some requests were withdrawn (39 requests, 5% of total requests) and 132 requests were carried over into the next year.



Departments partially or fully granted 433 RTIPPA requests (53% of total requests). A total of 184 requests (23% of total requests) were either abandoned, withdrawn, transferred, out of scope or requesting records which did not exist. Access to information was denied for 56 requests (7% of total requests).



REASONS FOR NOT DISCLOSING INFORMATION

When public bodies sever information from a record or decide to withhold a record related to a request, they must indicate in the response to the request which sections of RTIPPA they rely on to support this action. Table 1 shows the RTIPPA sections departments relied on to sever information from or to withhold a requested record and the number of requests indicating reliance on these sections.

In 2018-2019, section 21 regarding unreasonable invasion of third party's privacy was relied on the most (170 times), followed by section 26, advice to public body (87 times) and equally (46 times) by section 22, disclosure harmful to a third party's business or financial interests, and section 18, information provided in confidence to a government.

TABLE 1 – Number of RTIPPA Requests Relying on Specified Sections of RTIPPA to Sever or Withhold Requested Information

Section	Explanation	Number of Times Applied		
		2016-2017	2017-2018	2018-2019
Section 4	Records to which this Act applies (out of scope)	14	17	16
Section 12	Application deemed abandoned	5	0	0
Section 13	Transferring a request for access	7	3	1
Section 14	Contents of response (record does not exist or cannot be located)	64	5	16
Section 15	Power to authorize a head to disregard requests	0	0	0
Section 16	How access will be given	0	0	0
Section 17	Executive Council confidences	48	53	33
Section 18	Information provided in confidence to a government	24	11	46
Section 19	Information provided by a council of the band	0	1	2
Section 20	Information from a harassment, personal or university investigation	7	10	1
Section 21	Unreasonable invasion of third party's privacy	221	168	170
Section 22	Disclosure harmful to third party's business or financial	106	95	46
Section 23	Disclosure harmful to government relations	5	6	0
Section 24	Disclosure harmful to relations between NB and a council of the band	0	1	3
Section 25	Local public body confidences	2	1	1
Section 26	Advice to public body	125	91	87
Section 27	Legal privilege	45	36	44
Section 28	Disclosure harmful to an individual or to public safety or in the public interest	3	10	6
Section 29	Disclosure harmful to law enforcement or legal proceedings	12	8	14
Section 30	Disclosure harmful to economic and other interest of a public body	27	40	21
Section 31	Test, testing procedures and audits	0	3	0
Section 32	Confidential evaluations	6	0	2
Section 33	Information that is or will be available to the public	22	21	22
Section 34	Notice to third party	0	0	0
Section 46	Disclosure of personal information	0	0	0

COMPLAINTS AND REFERRALS BY APPLICANTS UNDER *RTIPPA*

If applicants are not satisfied with a response to their information request or if the response is not received within the established timelines, applicants may file a complaint with the Office of the Ombud or refer the matter to a judge of the Court of Queen's Bench. For information on complaints filed with Office of the Ombud, please see the annual reports which can be found at <https://ombudnb-aip-aivp.ca>.

CONTACT INFORMATION

For more information regarding access to information and privacy, please contact:

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