



INFORMATION REPORT

TO: The Halifax Board of Police Commissioners

FROM: Chief Dan Kinsella

DATE: July 6, 2023

SUBJECT: **Office of the Information & Privacy Commissioner Review Report of July 14, 2022**

Background:

At its July 12, 2023, Board of Police Commissioner's meeting, the following motion will be before the Board of Police Commissioners:

That the Chair of the Board of Police Commissioners recommend that the Chief Administrative Officer, in consultation to the extent necessary with the Chief Officer of the Halifax Regional Police, to prepare a staff report responding to and providing reasons for either accepting or rejecting recommendations #5 and #6 of the Office of the Information and Privacy Commissioner for Nova Scotia Review Report 22-12, dated July 14, 2022. If some or all of the recommendations are accepted, the staff report should also provide a plan for implementing these recommendations.

Recommendations:

5. Implement policies and procedures for engaging in the access to information review process with the OIPC within six months of the date of this review report.

6. Provide training on the policies and procedures implemented per Recommendation #5 to staff involved in the access to information review process with the OIPC within eight months of the date of this review report.

Halifax Regional Police has been asked to provide an update.

Issue summary:

- On August 26, 2021, an applicant sought information from Halifax Regional Police about its involvement in Halifax Regional Municipality's removal of temporary tents and shelters in public parks on August 18, 2021 in four requests made through the Freedom of Information process.
- On September 13, 2021, HRP responded to the applicant informing them that the requested information could not be released based on law enforcement exemptions (s. 475(1)(a), (c), (e)), or as personal information (s. 480), under the Municipal Government Act.

- On November 16, 2021, OIPC staff advised of a review of the decision and the applicant's request to expedite review. A review was initiated subsequent to that in which HRP participated.
- In the review report dated July 14, 2022, OIPC made some recommendations to HRP about the disclosure of the requested records along with policies, procedures and training related recommendations for FOIPOP staff.
- Given the large volume and sensitivity of the requested information, it proved to be a time-consuming effort, which had to be balanced with other several ongoing requests for information. HRP has continued to follow up and has released additional information as described in the section below.

HRP's Overall Response:

HRP is not in a position to specifically share details of the request because of the nature of the information involved. However, HRP notes in general that its decision related to these FOIPOP requests was largely consistent with previous years, given the nature of the information that was requested. Requests for the information were initially denied as releasing them, without a vast amount of vetting to remove information on individual officers and/or circumstances, could lead to situations that could harm officer safety or law enforcement, and most notably, risk disclosure of personal information related to HRP officers.

HRP communicated with the OIPC in August 2022 that we required more time to consider all recommendations. The OIPC, while not agreeing with our request for additional time, encouraged HRP to further consider providing additional disclosure. Since then, HRP has carefully reviewed the recommendations of the OIPC review, sought legal advice and has since been able to appropriately vet and release the requested information to the applicant. We continue to follow up on the recommendations as well as now released further information related specifically to the request.

HRP recognizes that there is an increasing expectation of access to information related to policing currently and we have a role to play in reviewing our processes and how we have done things historically - but at the same time our resourcing and systems associated with access to information have not kept up. We are looking internally on how we can support this area further using our current resources. We have also been offered assistance and additional training by the CAO's office through the municipality's Access and Privacy Officer staff.

HRP Response to Recommendations 5 and 6:

- HRP has adequate policies and procedures governing the engagement in the access to information review process with the OIPC. FOIPOP staff involved in review processes closely follow these. We will review the policies as part of the HRP policy refresh as well as through our engagement with the BoPC Policy sub-committee. HRP also plans to conduct a jurisdictional scan on policy and processes as well as assess the level of dedicated FOIPOP staffing resources among other peers.

- HRP respectfully notes that on occasion HRP will not be able to fulfill the request precisely as and when requested due to factors including the volume and resource constraints, especially where it is believed that sufficient grounds exist for such a decision. Often, requests under review are hundreds of pages in volume, require retrieval from HRM storage, internal and legal review prior to deciding on additional disclosure. As stated above, we remain committed to continuous improvement and ongoing learning for staff. Our current very small staff contingent is very well versed in associated policy and procedures; however, should new policies be identified and implemented, associated training will be delivered.

In conclusion, HRP has taken the steps noted in these recommendations where applicable. We acknowledge the desire for additional accessibility to information and remain committed to improved responsiveness and engagement with the OIPC and on related issues.