

Saint John Police Force

Access to information and privacy review (a discussion paper)

The right to information and protection of personal information requires a delicate balance particular in policing. Given the context of Police work and the public stigma associated with any attention by police, personal information generated, collected or analyzed as police information should be clearly protected at a much higher level than other government information. The activities around police information include by not limited too:

- Collecting and reporting
- Analyzing
- Verifying
- Evaluating
- Making assumptions drawing references
- Connecting the dots
- Planning
- Taking action/investigating

Access to police information involving;

- Informants
- Police activities
- Investigations – ongoing
- Victims – witnesses – suspects
- Procedures and considerations – (Mental Health Act – ViCLAS)
- Emerging security trends

Clearly, it is not in the public interest that all information from all these activities will be subject to *Right to Information*.

Officers are expected to perform assessments in less-than-clinical settings, and for purposes that are very context dependent and time-limited. For example duties related to the Mental Health Act or ViCLAS are based on a public interest that the officer collect and assess information, and generally err on the side of caution by being inquisitive and critical. There is a stigma associated with being processed under the MHA or ViCLAS. How would *Right to Information* release of this data affect future job prospects of a subject? Would an officer be less inquisitive and less critical if it was possible that the information may be released in the future, and that release of the information may lead to civil litigation because assessment by the officer caused the subject to be rejected for possible employment?

Given the above premise – and related scenarios – will *Right to Information* compromise Police investigations and intelligence gathering? Will it result in an information chill both by the officer or possible information provider? A pre-emptive practice of not gathering or recording data (investigatively useful data) that might otherwise be legitimate but is also awkward if released under *Right to Information*?

Police use information – and legitimate access to and protection of Police data – is already properly covered by legislation, case law, regulation and policy. It is a well integrated web of permissions and checks and balances. If refinement is necessary ...refine the existing legislation, regulation and or policies as it relates to Police use of data and legitimate access to and protection of Police data. Exempt Police from right to information and protection of personal property legislation.

All government activities should be subject to an appropriate level of transparency and public oversight. In New Brunswick – pursuant to the Police Act – this police oversight is exercised by the designated governance body. Applying right to information and protection of personal property legislation to policing does not create greater accountability; it may compromise the present level of oversight by restricting the information collected and analyzed, and by limiting information that can be shared with (for example) the Police commission.

Federal departments and agencies are already subject to right to information and protection of personal property legislation. Is the RCMP included? What is their administrative, operational, risk management, and business process experiences?

Clearly this is a complex matter. It is best explored and understood in conversation. The Review Task Force is encouraged to meet with the senior executive of the Saint John Police Force – or most appropriately the executive of the New Brunswick Association of Chiefs of Police – to have these conversations.