

*Right to Information and
Protection of Privacy*

2020-2021 Annual Report

Finance and Treasury Board

2020-2021 Annual Report
Right to Information and Protection of Privacy

Published by:

Finance and Treasury Board
Province of New Brunswick
P.O. Box 6000
Fredericton, New Brunswick E3B 5H1

CONTENTS

INTRODUCTION..... 1

 Right to information1

 Protection of privacy2

RIGHT TO INFORMATION REQUESTS 3

 Number of requests3

 Type of requests.....4

 Applicants4

 Departments receiving the most RTIPPA requests5

 Responses to *RTIPPA* requests6

 Reasons for not disclosing information.....7

 Complaints and referrals by applicants under *RTIPPA*.....8

CONTACT INFORMATION 8

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 days 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 Ombud.

Information about RTIPPA requests received by government departments and is tracked by departments in a new database called the Right to Information Tracking System (RTS) owned and managed by the Information Access and Privacy Unit. RTS 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, 2020, to March 31, 2021.

PROTECTION OF PRIVACY

RTIPPA also protects an individual's right to information privacy¹ 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.)

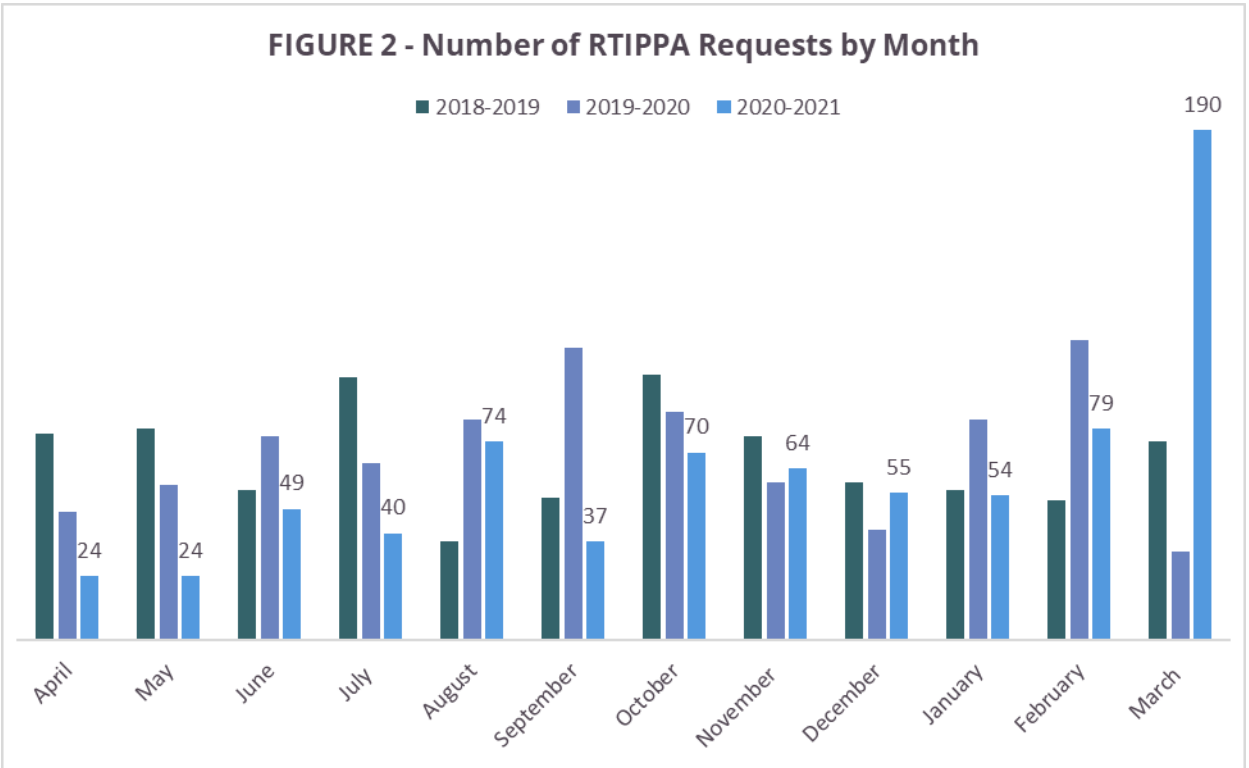
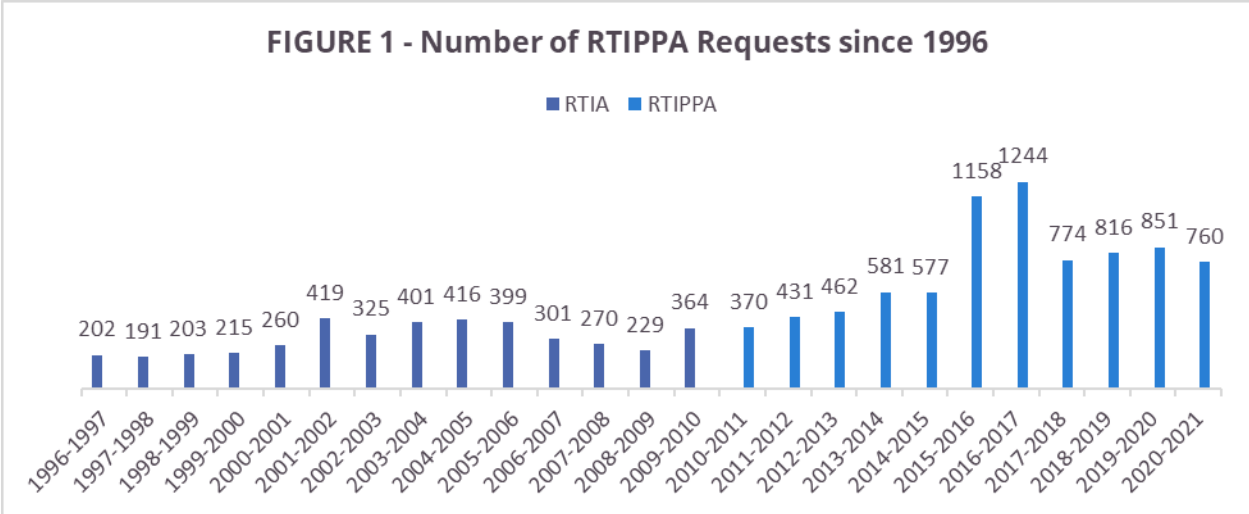
Apart from data in the RTS on the number of requests departments receive for personal information and correction of personal information, the Information Access and Privacy Unit does not collect data on departmental activities related to protection of information privacy.

¹ 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

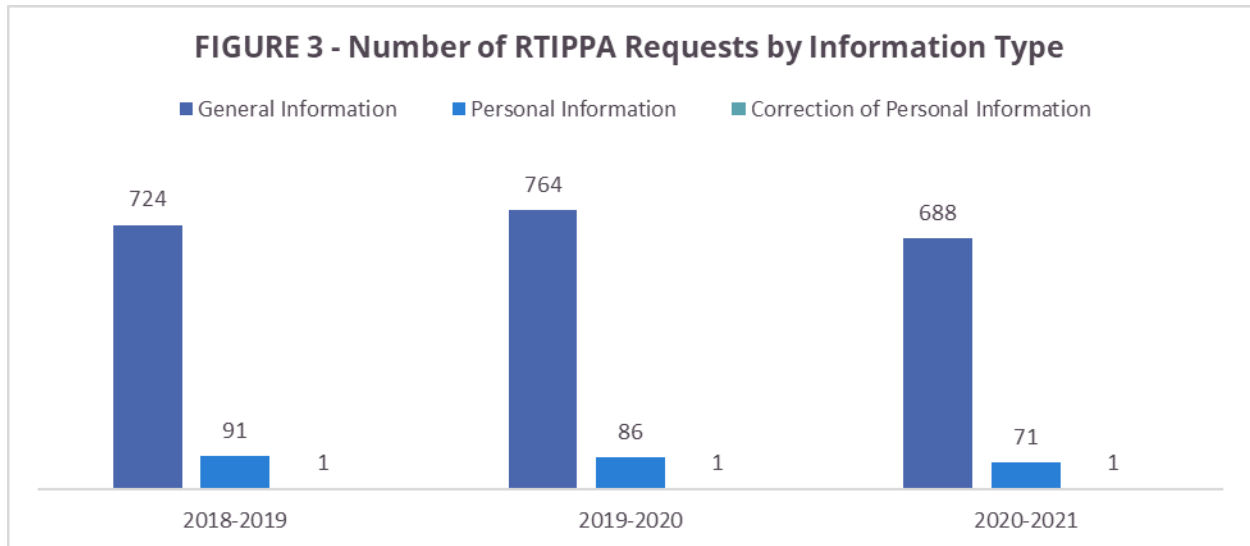
NUMBER OF REQUESTS

In 2020-2021, departments received a total of 760 RTIPPA requests. This is a decrease of 11% compared to the total requests received in 2019-2020. The greatest number of requests, 190 (25% of total requests), was received in March 2021, followed by 79 requests (10% of total requests) in February 2021 and 74 requests in August 2020 (10% of total requests).



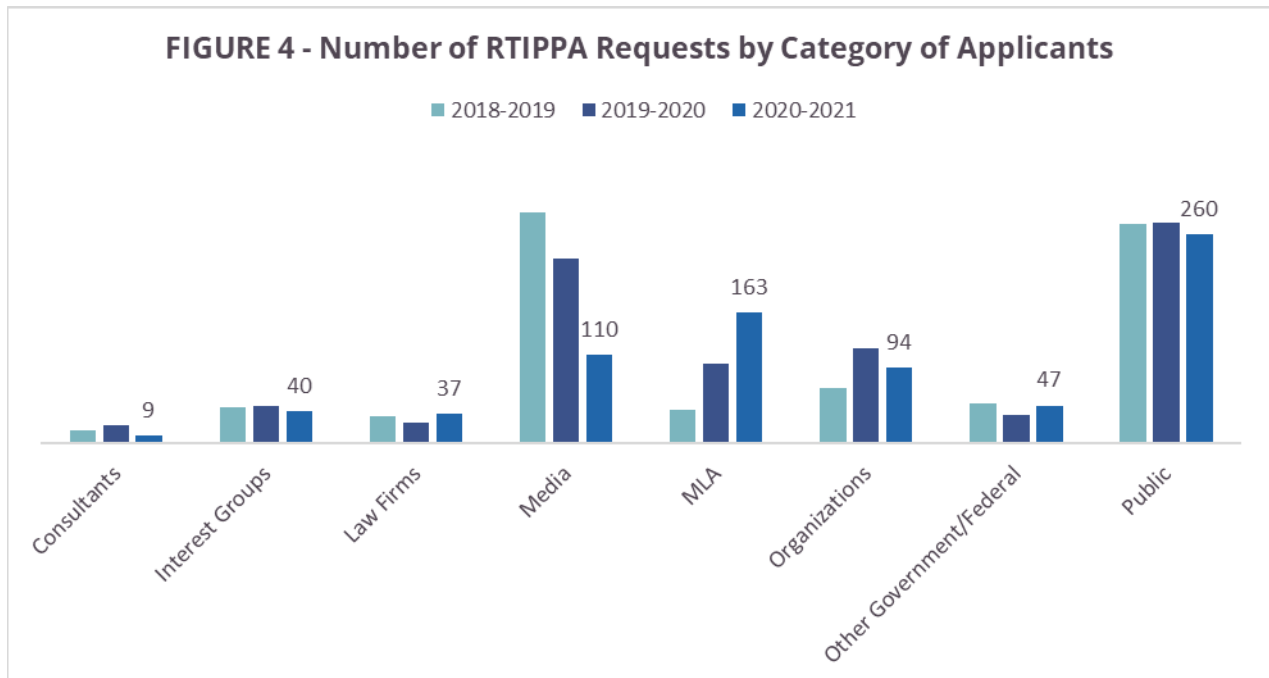
TYPE OF REQUESTS

Most RTIPPA requests in 2020-2021 were for general information at 688 requests (91% of total requests). There were 71 requests for personal information (9% of total requests) and 1 request (less than 1% of total requests) to correct personal information.



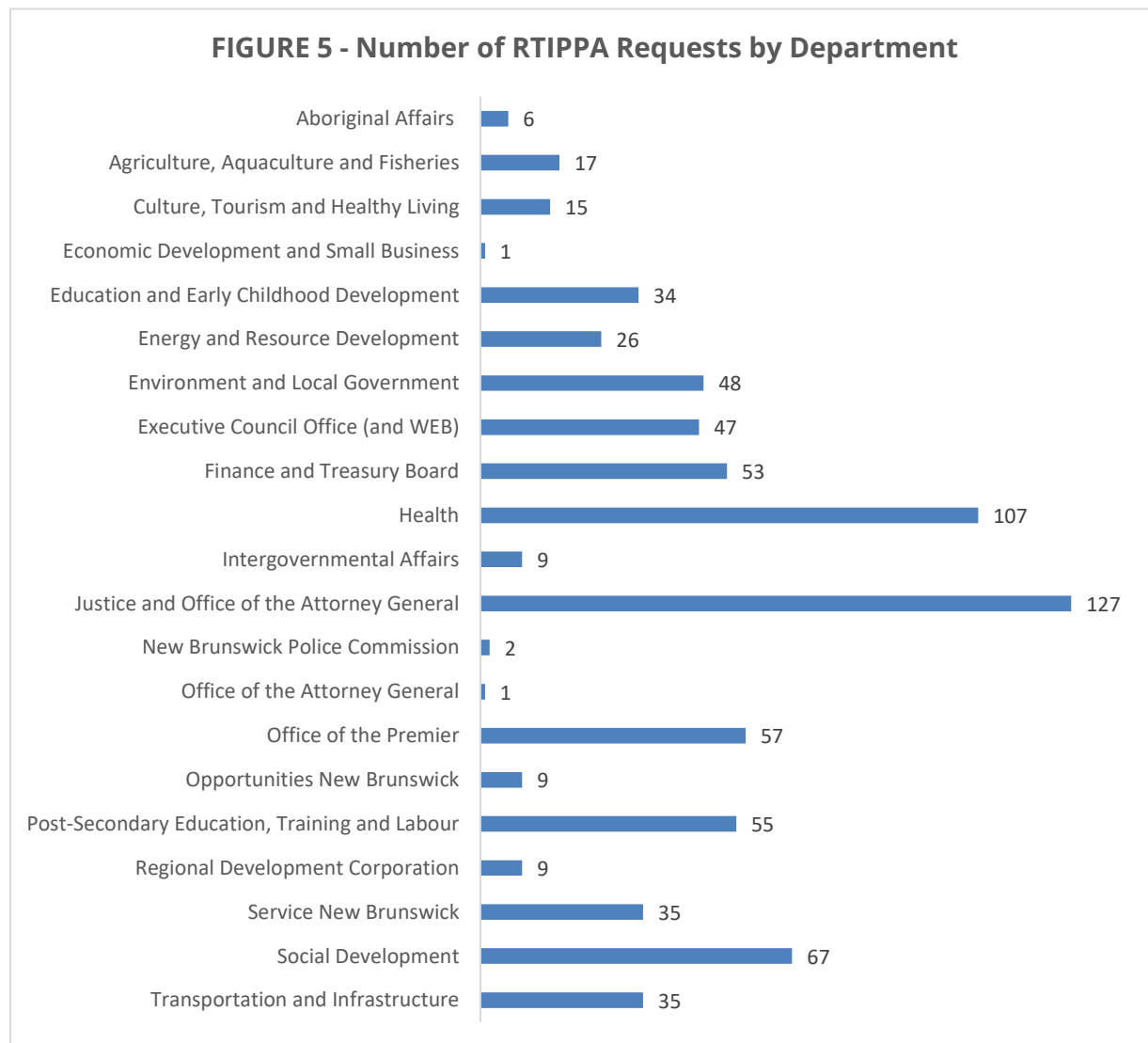
APPLICANTS

In 2020-2021, members of the public submitted the most RTIPPA requests to departments of any category of applicant with 260 requests (34% of total requests). Members of the Legislative Assembly submitted the second most requests 163 (21% of total requests), followed by the media with 110 requests (14% of total requests).



DEPARTMENTS RECEIVING THE MOST RTIPPA REQUESTS

The Department of Justice and Office of Attorney General ² received the most RTIPPA requests of any department at 127 requests (17% of total requests), followed by Department of Health at 107 requests (14% of total requests) and Social Development at 67 requests (almost 9% of total requests). These three departments received 40% of the total requests.



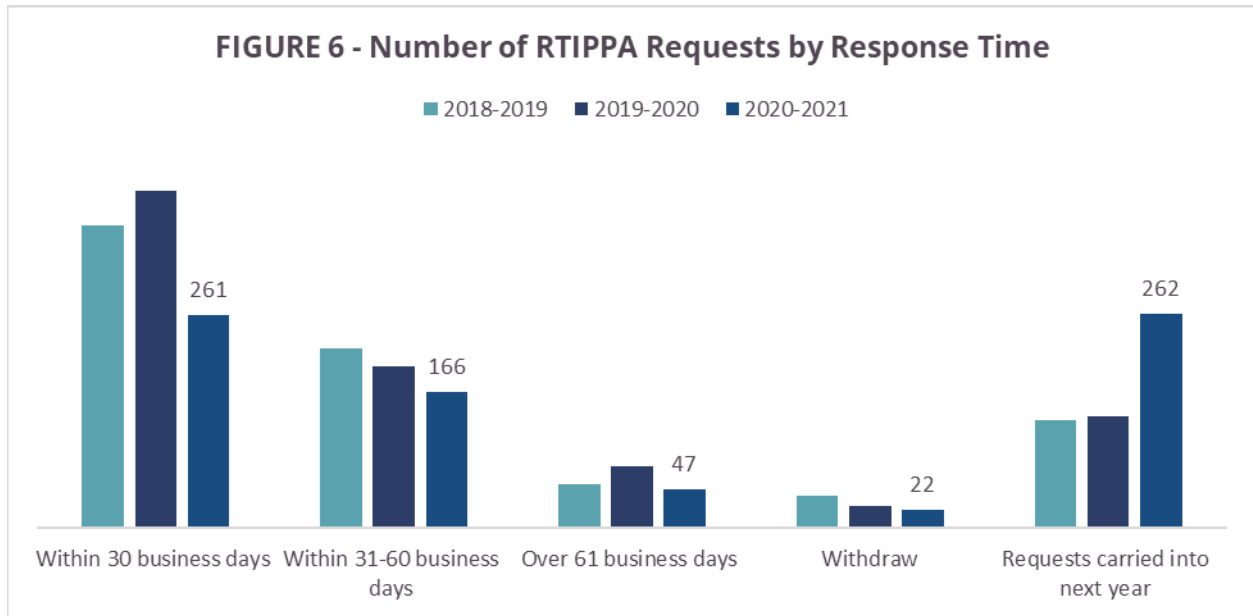
Government departments receiving the most Right to Information requests (three-year total, 2017-2020)

- | | |
|-----------------------------------------------------------------|-------------------------------------|
| 1- Justice and Public Safety (Office of Attorney General) (338) | 4- Finance and Treasury Board (202) |
| 2- Environment and Local Government (320) | 5- Social Development (200) |
| 3- Health (305) | |

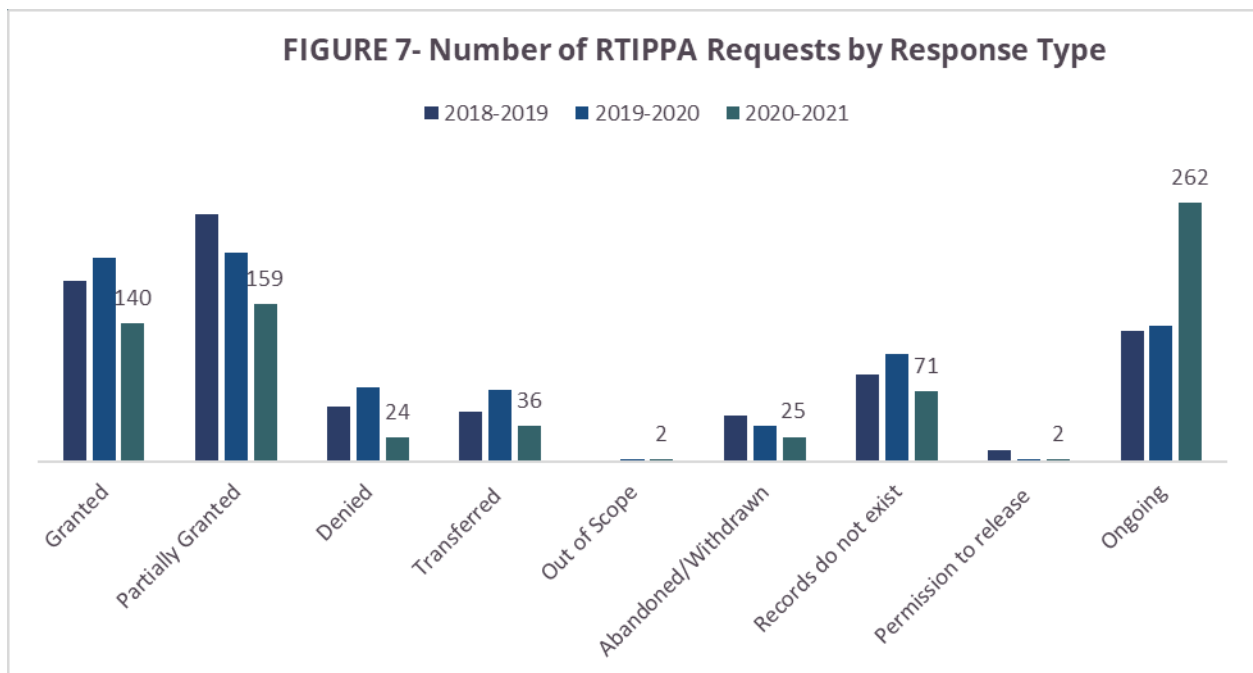
²In September 2020 the Department of Justice and the Department of Public Safety were merged to create the Department of Justice and Public Safety. In February 2021, the Department of Economic Development and Small Business was created. The Women's Equality Branch is now included under Executive Council Office.

RESPONSES TO RTIPPA REQUESTS

In 2020-2021, departments responded to 261 RTIPPA requests (34 % of total requests) within 30 business days of receipt, 166 requests (22% of total requests) within 31 to 60 business days of receipt and 47 requests (6% of total requests) more than 60 business days after the date of receipt. Some requests were withdrawn (22 requests, 3% of total requests) and 262 requests (35%) were carried over into the next year.



Departments partially or fully granted 299 RTIPPA requests (41% of total requests). A total of 134 requests (19% of total requests) were either abandoned, withdrawn, transferred, out of scope or requesting records which did not exist. Access to information was denied for 24 requests (3% 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 2020-2021, section 21 regarding unreasonable invasion of third party's privacy was relied on the most (143 times), followed by section 26, advice to public body (89 times) and section 22, disclosure harmful to a third party's business or financial interests (77 times).

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

Section	Explanation	Number of Times Applied		
		2018-2019	2019-2020	2020-2021
Section 4	Records to which this Act applies (out of scope)	16	19	15
Section 12	Application deemed abandoned	0	0	0
Section 13	Transferring a request for access	1	7	2
Section 14	Contents of response (record does not exist or cannot be located)	16	0	3
Section 15	Power to authorize a head to disregard requests	0	0	0
Section 16	How access will be given	0	1	26
Section 17	Executive Council confidences	33	63	11
Section 18	Information provided in confidence to a government	46	57	27
Section 19	Information provided by a council of the band	2	3	37
Section 20	Information from a harassment, personal or university investigation	1	6	5
Section 21	Unreasonable invasion of third party's privacy	170	165	143
Section 22	Disclosure harmful to third party's business or financial	46	122	77
Section 23	Disclosure harmful to government relations	0	0	0
Section 24	Disclosure harmful to relations between NB and a council of the band	3	3	0
Section 25	Local public body confidences	1	0	2
Section 26	Advice to public body	87	111	89
Section 27	Legal privilege	44	60	34
Section 28	Disclosure harmful to an individual or to public safety or in the public interest	6	4	10
Section 29	Disclosure harmful to law enforcement or legal proceedings	14	18	20
Section 30	Disclosure harmful to economic and other interest of a public body	21	23	35
Section 31	Test, testing procedures and audits	0	0	0
Section 32	Confidential evaluations	2	0	0
Section 33	Information that is or will be available to the public	22	21	9
Section 34	Notice to third party	0	0	1
Section 46	Disclosure of personal information	0	0	1

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 the 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:

Information Access and Privacy Unit
Office of the Chief Information Officer
Finance and Treasury Board
Tel.: (506) 444-4180
Email: IAPU-UAIPVP@gnb.ca