



NOVASCOTIA
PUBLIC PROSECUTION SERVICE

DOCUMENT TITLE:

**FREEDOM OF INFORMATION AND PROTECTION OF
PRIVACY (FOIPOP) ACT– PROCEDURE RE
APPLICATIONS FOR RECORDS**

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FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY (FOIPOP) ACT -- PROCEDURE RE APPLICATIONS FOR RECORDS

Preamble

The *Freedom of Information and Protection of Privacy (FOIPOP) Act*, in force since July 1, 1994, has as its goal the ready provision and prompt access to information held by the government, while protecting the privacy of individuals about whom the government holds information. [The *Act* is available at www.gov.ns.ca/legi/legc/statutes/freedom.htm.]

The *FOIPOP Act* is built on the premise that every document, record or file held by the government is subject to release to the general public. Active prosecutions are excluded from the application of the *FOIPOP Act*, if the records sought can be shown to be part of an ongoing prosecution; otherwise, exemptions from release are generally few in number and narrow in scope. Exemptions are designed to ensure individual privacy, to protect law enforcement techniques, to preserve solicitor client privilege and to protect advice to a Minister or public body given within the previous five years.

The Administrator of the *FOIPOP Act* is designated in writing by the head of the public body (the DPP) and has the responsibility to ensure the Public Prosecution Service's compliance with both the spirit and intent of the *Act*. The *FOIPOP Act* sets strict time lines for the Service's response to *FOIPOP* requests.

When a request is made under the *FOIPOP Act* for records in the possession of the PPS, the *Act* requires that the head of a public body "make every reasonable effort to assist the applicant and to respond without delay to the applicant openly, accurately, and completely..." [see section 7 of the *Act*]. For the purposes of the *FOIPOP Act*, the PPS has delegated the responsibilities of the head of the PPS to the Administrator. All PPS staff have a duty to support the Administrator in meeting the obligations contained in the *Act*. This policy is intended to assist in that regard.

Courts have also pointed out a further obligation to assist the Administrator designated under the *FOIPOP Act*. The FOIPOP Review Officer, in Report FI-97-38 (1998) at paragraph 31, has recommended "that the PPS ensure in the future that its Administrator for this *Act* [FOIPOP] is kept fully informed when dealing with Applications for Access and Requests for Review and has access to all the documents being sought". This policy is also intended to assist all staff of the PPS in meeting this more particular obligation.

Procedures and time lines

1. It is essential that this policy be applied in a way which meets, in all ways, the spirit and intent of the *FOIPOP Act*. The Act demands that the head of every public body respond “without delay” to everyone who seeks access to records; accordingly, time is of the essence in relation to compliance with this policy. More specifically, the Act requires that the Administrator respond to an application within thirty days of receipt. All members of the PPS share the burden of ensuring that this deadline for response is met.
2. Upon receipt of a written request, whether by letter or by the *FOIPOP* Application Form, for Public Prosecution Service records (other than a request for disclosure by counsel for records disclosing allegations against a client), the Crown Attorney or support staff member first aware of the request shall forthwith forward the request by facsimile (or, if more practicable, by hand) to the office of the Administrator. The fax number for the FOIPOP Administrator for the PPS is (902) 424-6309 . In any event, the office of the Administrator is to be made aware of the request within twenty-four hours of receipt by the PPS.

An application received shall be stamped with the date upon which it was first received by the Public Prosecution Service. If the application is received by an office other than that of the Administrator, it should be stamped with the appropriate office stamp before it is forwarded to the Administrator.

3. Upon receipt of an oral request for Public Prosecution Service records, the Crown Attorney or support staff member shall forthwith refer the requester to the office of the Public Prosecution Service *FOIPOP* Administrator:

Public Prosecution Service FOIPOP Administrator
Suite 1225, Maritime Centre
1505 Barrington St., Halifax NS, B3J 3 K5.

4. Upon receipt by a Public Prosecution Service office of a request from the Administrator for records held by that office which are the subject of a *FOIPOP* application, the Crown Attorney or support staff shall forthwith determine whether the request is for records contained in an active prosecution. If the records are concerning an active prosecution, the office of the Administrator shall be advised of that within 48 hours of receipt of the request.

5. Upon receipt by a Public Prosecution Service office of a request from the Administrator for records, other than those of an active prosecution held by that office, which are the subject of a *FOIPOP* application, the Crown Attorney or support staff shall forthwith make an estimate of the time required to retrieve the record, the quantum of records involved in the retrieval request and the courier costs to forward the records to the Administrator. This estimate shall be submitted, within four business days to the office of the Administrator, in the form attached as Appendix 1.
6. After the cost estimate has been forwarded to the Administrator by a Public Prosecution Service office and upon further request from the office of the Administrator to forward records held by that office which are the subject of a *FOIPOP* application, the Crown Attorney or support staff first in receipt of the request shall forthwith retrieve the records and forward same within five business days. If the retrieval of records cannot be achieved in that time frame, the office of the Administrator shall be immediately advised as to the reason for the delay and the time frame within which the records can be sent.
7. The records sent to the office of the Administrator shall be the complete and **original** records held in that office which are the subject of the *FOIPOP* application. All records forwarded to the office of the Administrator shall be in an 'as is' state; they shall not be altered in any way and no part shall be removed.
8. Upon inquiry from the office of the Administrator, a full and candid account of the matter inquired about shall be given by the inquirer. If the recipient of a request from the office of the Administrator has questions or concerns about the request, they are to be discussed forthwith with the Administrator.
9. All Crown Attorneys and Public Prosecution Service support staff shall receive training on this policy and the obligations that the *FOIPOP Act* places on government departments and agencies. The Public Prosecution Service will ensure that all new employees receive *FOIPOP* training within one year of the commencement of their employment with the Public Prosecution Service.

**FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT
APPLICATION / FEE ESTIMATE**

FOIPOP APPLICATION FILE NUMBER:

PPS FILE NUMBER:

PPS OFFICE:

DATE APPLICATION RECEIVED IN PPS OFFICE:

FEE ESTIMATE:

Estimated time (hours) to retrieve records:

@ \$15.00/ half hour: \$ _____

Plus courier costs (estimated) : \$ _____

Total: \$ _____

Fax within 4 business days to PPS FOIPOP Administrator: (902) 424-6309.

ACTUAL FEES:

Actual time (hours) to retrieve records:

@ \$15.00/ half hour: \$ _____

Plus courier costs (actual): \$ _____

Total: \$ _____

Forward with requested records to: PPS FOIPOP Administrator
Suite 1225 Maritime Centre
1505 Barrington Street
Halifax, NS B0J 1N0