



Office of the Information and
Privacy Commissioner of Alberta

Investigation Report F2018-IR-01

*Investigation into searches of the Government of Alberta's
Action Request Tracking System in response to access requests*

June 19, 2018

Government of Alberta

*Investigations 003353 (Executive Council), 003354 (Health),
003355 (Infrastructure), 003356 (Transportation), 003357 (Education),
003358 (Economic Development and Trade), 003359 (Treasury Board and Finance),
003360 (Justice and Solicitor General), 003361 (Environment and Parks),
003362 (Agriculture and Forestry), 003363 (Municipal Affairs),
003364 (Energy), 003365 (Human Services), 003366 (Seniors and Housing),
003367 (Indigenous Relations), 003368 (Labour), 003369 (Service Alberta),
003370 (Culture and Tourism) and 003517 (Advanced Education)*

Summary

After the release of Investigation Report F2016-IR-01 into alleged improper destruction of records following the May 2015 provincial election, an individual wrote a letter to the Commissioner with concerns that the misunderstanding of the application of the FOIP Act to the information held in the Action Request Tracking System (ARTS) as referenced in the report may have impacted responses he or others received to previous access requests made under the FOIP Act.

This investigation was opened to consider whether Government of Alberta (GoA) departments, in responding to access requests where relevant records may have been available through ARTS, make every reasonable effort to assist applicants and to respond to each applicant openly, accurately and completely, as required by section 10(1) of the FOIP Act.

Nineteen GoA departments received letters from the Commissioner advising them of the investigation.

Overall, this investigation found that GoA departments, in responding to access requests where relevant records may be available through ARTS, make every reasonable effort to assist applicants and to respond to each applicant openly, accurately and completely, as required by section 10(1) of the FOIP Act.

This is a general finding and does not implicate past, current or future reviews by the Office of the Information and Privacy Commissioner of GoA department responses to access requests made under the FOIP Act, since this investigation did not look at any specific response package, but rather focused on records search and retrieval processes.

However, the investigation highlighted five significant differences in how GoA departments search for records in general, as well as search for records in ARTS.

Based on the significant differences that were highlighted, four recommendations were made.

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Background

- [1] In January 2016, the Information and Privacy Commissioner (Commissioner) released a joint investigation report (F2016-IR-01) with the Public Interest Commissioner into alleged improper destruction of records following the May 2015 provincial election.¹
- [2] While not the main focus of the investigation, the report identified a concern regarding the processing of access requests made under the *Freedom of Information and Protection of Privacy Act* (FOIP Act). Paragraph 128 of the report said the following regarding the Government of Alberta's Action Request Tracking System (ARTS):

Investigators were advised by Service Alberta officials "only subject lines are FOIPable [sic]", meaning the FOIP Act only applied to the subject lines of [Action Requests]. This is a serious misunderstanding of the application of the FOIP Act to the information held in ARTS. All records and attachments in ARTS are subject to the FOIP Act in their entirety, with some information in those records exempted from disclosure if it meets certain criteria. This assertion, which was repeated a number of times, raises questions regarding the processing of past FOIP requests for access, the completeness of searches done to locate responsive records, or public bodies acting on advice or an assumption that the FOIP Act did not apply to records in ARTS.

- [3] Subsequent to the release of Investigation Report F2016-IR-01, the Commissioner received a letter from an individual concerned that the misunderstanding of the application of the FOIP Act to the information held in ARTS as referenced in the report may have impacted responses he or others received to previous access requests made under the FOIP Act.
- [4] In response, the Commissioner decided to initiate an investigation to review how Government of Alberta (GoA) departments search for records in ARTS in response to access requests made under the FOIP Act. The investigation was initiated on the Commissioner's own motion pursuant to section 53(1) of the Act, which reads:

General powers of Commissioner

53(1) In addition to the Commissioner's powers and duties under Part 5 with respect to reviews, the Commissioner is generally responsible for monitoring how this Act is administered to ensure that its purposes are achieved, and may

(a) conduct investigations to ensure compliance with any provision of this Act or compliance with rules relating to the destruction of records...

- [5] The investigation considered whether GoA departments, in responding to access requests where relevant records may have been available through ARTS, make every reasonable effort to assist applicants and to respond to each applicant openly, accurately and completely, as required by section 10(1) of the FOIP Act.
- [6] Nineteen GoA departments received letters from the Commissioner advising them of the investigation.

¹ Investigation Report F2016-IR-01 was published January 7, 2016 and is available at <https://www.oipc.ab.ca/decisions/investigation-reports.aspx>

[7] I was assigned to investigate this matter. This report sets out my findings and recommendations. My investigation did not review responses to specific access requests, but rather focused on GoA records search and retrieval processes, and specifically if and how GoA departments search ARTS when locating and retrieving responsive records.

Jurisdiction

[8] The FOIP Act applies to all records in the custody or under the control of a public body with some exclusions as set out in section 4(1).

[9] “Public body” is defined in section 1(p)(i) of the FOIP Act to include “a department, branch or office of the Government of Alberta”. The 19 departments that received letters advising of this investigation are all public bodies as defined in section 1(p)(i), and are subject to the FOIP Act.

[10] Section 1(q) of the FOIP Act defines “record” as follows:

(q) “record” means a record of information in any form and includes notes, images, audiovisual recordings, x-rays, books, documents, maps, drawings, photographs, letters, vouchers and papers and any other information that is written, photographed, recorded or stored in any manner, but does not include software or any mechanism that produces records [my emphasis]

[11] Investigation Report F2016-IR-01 describes ARTS; it is a government-wide tool introduced in 1999/2000, and was subsequently redeveloped in 2011/2012. Employees in GoA departments create and use action requests (ARs) within ARTS. ARTS is used for:

- Registering public or internal requests for action
- Directing the request to the appropriate departmental official(s) for research and response
- Supporting collaboration across departments in the response
- Setting and tracking response times and status
- Documenting the response for future reference

[12] Many ARs serve as the basis for briefings to Ministers or Deputy Ministers. Once an AR is completed, the related records are taken offline, where they can be accessed but not reactivated.²

[13] Certain GoA employees have access to ARTS and to the records in it about their own department. For those GoA employees who have access to ARTS, their level of access in the system is based on access control rules set within their department, including an ability to search through ARs. A subset of ARs and related records may be deemed to be more

² Investigation Report F2016-IR-01 considered the management of records in ARTS, with a specific focus on record retention practices, which is not within the scope of this investigation report.

sensitive and therefore flagged as “Confidential”³. Only the ARTS profiles of users who have confidential status can be used to access ARs classified as confidential in the system. In addition, one or more individuals, usually working in the Deputy Minister’s Office, in each department have elevated administrative privileges in the system. These ARTS users are referred to as “super users” and are able to override ARs routing in case an ARTS user who is assigned an AR is unexpectedly away. The “confidential” and “super user” security roles can be granted to ARTS users, but the two roles are not necessarily related.

- [14] Over the years, the Office of the Information and Privacy Commissioner (OIPC) has issued many orders related to access requests for records in electronic information systems. See, for example, Order 98-012 which dealt with a request for correspondence in the Premier’s correspondence and invitations databases.
- [15] Recently, Order F2017-11 found that a request to Service Alberta for a copy of a database in an electronic system is a request under the FOIP Act saying, “As the data in a database is recorded information, section 6 of the FOIP [Act] creates a right in an applicant to request a copy of it.” The Adjudicator also said:
- [para 17] I conclude from the foregoing that data in a database is a record, and that the duty to create a record from one that is in electronic form under section 10(2) may involve creating it in a format suitable for the Applicant provided this can be done with a public body’s usual software, hardware, and technical expertise. [my emphasis]
- [16] The public body in that case was ordered to meet its duty to assist under section 10(2) of the FOIP Act by “consulting with its technical experts to determine whether it can create a copy of the data in the Quest database in open data format without the names of individuals.”
- [17] Similarly, Order F2017-10 found that an applicant who had made a request to Service Alberta for “all data field layouts and copies of all standard reports, with standard data files, for the IMAGIS database” had made an access request under the FOIP Act. The public body was ordered:
- [T]o comply with its duty to assist the Applicant under section 10(2) by taking steps to clarify whether the Applicant was seeking recorded information in the IMAGIS database and to determine, with the assistance of a technical person, whether this information is a record within the terms of the FOIP Act, and not software, and if so, whether it would be possible to create a record of the kind requested by the Applicant.
- [18] I considered these orders in concluding that ARTS is an electronic information system used by GoA public bodies to manage and track ARs. Information stored in ARTS, including records and attachments, qualifies as recorded information as defined in section 1(q), and is subject to the FOIP Act.

³ Some departments have opted to classify all ARs as confidential by default to further restrict control access.

Issue

[19] The following issue was identified for this investigation:

- Do GoA departments, in responding to access requests where relevant records may be available through ARTS, make every reasonable effort to assist applicants and to respond to each applicant openly, accurately and completely, as required by section 10(1) of the FOIP Act?

Methodology

[20] I took the following steps during the course of my investigation:

- Met with Service Alberta, as the department responsible for the administration of the FOIP Act within the GoA
- Asked the FOIP Coordinators for each of the departments to provide information about their search protocols when an access request is received, particularly when responsive records may be available through ARTS
- Reviewed and compared practices of GoA departments
- Requested and reviewed a sample of records provided by GoA departments as evidence of searches
- Followed up with department FOIP Coordinators as needed to clarify certain aspects of their responses

Analysis

Issue 1: Do GoA departments, in responding to access requests where relevant records may be available through ARTS, make every reasonable effort to assist applicants and to respond to each applicant openly, accurately and completely, as required by section 10(1) of the FOIP Act?

[21] Section 10 of the FOIP Act reads as follows:

Duty to assist applicants

10(1) The head of a public body must make every reasonable effort to assist applicants and to respond to each applicant openly, accurately and completely.

[22] In Alberta and similarly in other Canadian jurisdictions, the legal interpretation of the “duty to assist” principle has made it clear that the duty to assist applicants includes carrying out an adequate search for records.

[23] In Order 96-022, when discussing the duty to assist (section 9(1) at the time), former Commissioner Robert C. Clark said:

[14.] The Information and Privacy Commissioner in British Columbia has set out, in Order No. 30-1994, criteria for determining whether or not a public body has carried out a proper search. The Commissioner stated that “[a] public body must make every reasonable effort to search for the actual records that have been requested.” The Commissioner added that “[a] public body will meet its duty to assist an applicant where it makes every reasonable effort to search for the records requested and it informs the applicant in a timely way what it has done.” [my emphasis]

[24] In Order 97-003, the former Commissioner confirmed he had adopted the criteria referenced in Order 96-022, and added additional clarification:

[24.] In Order 96-022, I discussed the issue of a public body’s adequate search for responsive records. In that Order, I adopted criteria for determining whether or not a public body has carried out a proper search. I said that a public body must make every reasonable effort to search for the actual records that have been requested.

[25.] In Order 96-022, I also said that although section 67 of the Act is silent on the issue of burden of proof, the burden of proof is on the public body because it is in a better position to address the adequacy of a search. Nevertheless, section 7(2) requires that the Applicant provide sufficient clarification of its request to enable the Public Body to locate the appropriate records. There does not appear to be any issue concerning the clarity of the Applicants’ requests in this case.

[26.] I have also reviewed Ontario Order P-1186, which holds that in order to properly discharge its obligations under the equivalent section of the Act, a public body must provide the Commissioner with sufficient evidence to show that the public body has made a reasonable effort to identify and locate records responsive to the request. [my emphasis]

[25] In summary, orders issued by the OIPC have consistently reaffirmed that:

- The duty to assist includes the duty to conduct an adequate search for records.
- In conducting an adequate search, a public body must make every reasonable effort to search for the requested records, and inform the applicant in a timely way what it has done.
- The burden of proof rests with the public body to demonstrate that an adequate search has been performed.
- In order to properly discharge its obligations under the FOIP Act, a public body may be required to provide sufficient evidence to show that it has made a reasonable effort to identify and locate responsive records.

[26] Many of the principles set out in these orders are reiterated in Service Alberta’s *FOIP Guidelines and Practices: 2009 Edition*, Chapter 3 “Access to Records” (the Guidelines),

which provides guidance for GoA departments when searching and retrieving records in response to access requests.⁴ The Guidelines say:

Locating, retrieving and copying records

A public body must make a reasonable effort to identify and locate records responsive to the request (see *IPC Order 2000-030*).

A search for responsive records must consider all records, as defined in the Act, including all electronic records that are in the custody or under the control of the public body.

A public body must search all locations, including individual offices, central active files and off-site locations, where records might be found (see *IPC Order 99-021*).

The search for electronic record [sic] may include electronic information management systems, business applications, shared directories, e-mail systems, websites, collaboration sites, and social media.

...

A public body must be prepared to support claims for the adequacy of a search with evidence as to how the public body conducted its search in the particular circumstances (*IPC Orders 98-003* and *2000-030*). In *IPC Order 2007-029*, the Commissioner stated that evidence as to the adequacy of a search should cover the following:

- the specific steps taken by the public body to identify and locate responsive records,
- the scope of the search conducted (e.g. physical sites, program areas, specific databases, off-site storage areas),
- the steps taken to identify and locate all possible repositories of relevant records (e.g. keyword searches, records retention and disposition schedules),
- who did the search, and
- why the public body believes no more responsive records exist than what has been found or produced.

...

Staff in search locations should be told to keep track of and report on the amount of time spent on locating and retrieving records. If the search is expected to involve a large number of hours, the FOIP Coordinator should be notified. The FOIP Coordinator may want to contact the applicant to discuss whether the scope of the request, and resulting fees, could be reduced. [my emphasis]

[27] With the above referenced orders and the Guidelines in mind, I asked GoA FOIP Coordinators a number of questions about their departmental records search and retrieval practices when responding to access requests made under the FOIP Act. Specifically, I requested information about:

⁴ Service Alberta's *FOIP Guidelines and Practices: 2009 Edition*, Chapter 3 "Access to Records", is available at <http://servicealberta.gov.ab.ca/foip/resources/chapter-3.cfm>, accessed January 23, 2017.

- How they communicate to program areas that an access request has been made
- Training or guidance provided to department staff to assist them in searching for records
- Steps taken to document searches
- How departments decide whether or not to search ARTS
- Steps taken if ARTS is thought to contain responsive records

[28] For each of these topics, I identified the most widely followed practice or practices (common practices), as well as any other approaches. The responses are summarized below. I also provide a brief evaluation of the various practices in relation to one another.

Communicating That an Access Request Has Been Made

[29] Fifteen FOIP Coordinators reported that they rely on a network of “designates” to carry out searches for records that may be responsive to an access request. These designates are individuals spread across a department, whose responsibilities enable them to effectively relay messages from the FOIP Office to a large number of department employees. These individuals are also particularly knowledgeable about access to information principles.

[30] These same FOIP Offices described the process they follow when they want to initiate a search in their department for records potentially responsive to an access request. Generally, the process described is as follows:

- The FOIP Office prepares an email message or a standalone document that includes the clarified wording of an access request, including the time period records are sought for, and the deadline to provide records to the FOIP Office.
- At its core, the call for records is intended to ask employees in the department to identify and locate records that may be responsive to an access request.
- For general access requests, the name, or other information that could reveal the identity of an applicant, is not included in the call for records.
- Upon receipt of the call for records, designates are expected to search all of the places that contain records, in any form, and to have their direct reports search for records as well.
- In addition to searching for records themselves, designates would typically also be relied upon to pass the call for records on to other program areas if they believe those program areas may also have responsive records.

[31] The remaining four GoA departments described an approach that does not rely on designates. In those departments, for each request for information received, the FOIP Office

identifies the program area that holds the master records responsive to the request and sends the call for records to the individual leading the program area in question.⁵

Evaluation

- [32] The most common approach is a pragmatic one, given the varying size of FOIP Offices (which range from a few employees, to a dozen employees) relative to the size of GoA departments (which can include thousands of employees, often widely spread across the province).
- [33] The goal of these FOIP Offices is to identify individuals or positions who would make ideal designates, which then allows for focused training efforts with these individuals, so as to ensure they have above average knowledge of the FOIP Act as well as an advanced understanding of the practical implications of access to information principles for their program area.
- [34] In addition, this approach relies on designates who are familiar with the subject matters and organizational layout of their respective program areas, and are best positioned to fan out the call for records and achieve optimal dissemination across a department. This approach is well-suited to larger departments with multiple program areas.
- [35] The alternative approach implemented by the remaining FOIP Offices is well suited and more manageable for smaller departments. This approach relies on a FOIP Coordinator's deep knowledge of his or her own department, as well as accurate knowledge of the record holdings in the department's various program areas. The risk with this approach is that organizational knowledge may not survive a FOIP Coordinator's departure, which could create significant transition challenges for the departments in question.

Training and Guidance

- [36] I asked FOIP Coordinators to describe the training or guidance they provide to staff in their department to assist in searching for responsive records.
- [37] Thirteen respondents reported that their FOIP Office is involved across the department, throughout the year, to deliver training sessions to all department employees, to remind them of principles of the FOIP Act, their individual responsibilities under the Act, as well as the practical implications of those principles in their day-to-day work including what they should do upon receiving a call for records from the FOIP Office.
- [38] These same respondents indicated that in addition to delivering ongoing training, the FOIP Office makes it widely known throughout the department that subject matter experts are available to provide guidance for program areas related to the administration of the FOIP Act. Similarly, each call for records includes the FOIP Office's contact information, and often the contact information of the FOIP Advisor specifically in charge of processing a given request for information.

⁵ Information management professionals sometimes refer to the concept of "office of primary responsibility" to describe program areas that hold the master copy of a record.

- [39] Two respondents stated that their office had developed dedicated, standalone guidelines for their department, with the intent to provide program areas and designates with more detailed guidance for searching for responsive records. Similarly, four other FOIP Offices reported they had developed a dedicated document that is distributed when they issue a call for records. The document sets out detailed search instructions.
- [40] Five FOIP Offices reported that when they distribute the call for records within their department, recipients are asked to contact the FOIP Office if they need guidance or assistance to search for records. These FOIP Offices made no mention of delivering training, or providing guidance when they send out the call for records throughout their department.
- [41] Three FOIP Offices responded that they provide guidance on a case-by-case basis, and as dictated by the specifics of each access request, which may include suggestions by the FOIP Office of locations to search for potentially responsive records.

Evaluation

- [42] The most common approaches help to ensure general awareness of the FOIP Act across the department, while providing more specific guidance and support to those most involved in the early stages of responding to access requests (i.e. searching for and retrieving records).
- [43] A small number of departments reported that they train their network of designates beyond the basic FOIP Act awareness training delivered to other department employees, so as to empower these designates to become effective “FOIP champions” in their program area. This additional training approach appears to be the best practice from all the responses received, as it leverages the reach of the FOIP Office through its network of designates.
- [44] In my view, the ad hoc approaches described above are reasonable for smaller departments, or those that do not experience high volumes of access requests. There is no guarantee, however, that these approaches would work for larger departments, or those that receive a large number of access requests.

Documenting Searches

- [45] I asked FOIP Offices to describe if and how they require department employees to document their search efforts.
- [46] Ten of the FOIP Offices reported using a dedicated form to document efforts to search for records across program areas in their department. These forms vary in their presentation and content, but all include similar fields that must be completed when a search is conducted, such as:
- Locations searched – physical locations as well as information systems
 - A description of the method employed to search, such as keywords
 - A contact person who can speak to the search
 - Amount of time spent searching

- [47] The FOIP Offices using a dedicated form reported that employees conducting searches, or having searches done on their behalf, are required to complete the form. I reviewed completed forms from a sample of nine departments that use a dedicated form, and verified that the forms showed evidence that ARTS was searched in order to identify responsive records.
- [48] Five of the FOIP Offices indicated that they do not use a dedicated form to systematically document searches. Instead, individuals who search for records are asked to elaborate on the search they have conducted only when they report not having found any records, or when they have found fewer records than was anticipated by the FOIP Office. In these cases, the FOIP Office requests that these individuals provide the same details as those captured in the form described above, such as locations searched, method used to search and contact person. Some departments that follow this practice indicated that they previously used forms to document searches, but that their departments did away with this practice as they found completing the form to be too time consuming.
- [49] The remaining four FOIP Offices reported they do not use a form to document searches, and do not ask employees to elaborate on search efforts, even in cases where no records are located. Instead, the FOIP Coordinators reported that the office will follow up with individual employees via email, depending on the circumstances of the access request and records sought.
- [50] I reviewed records from departments that do not use a form to document their searches, and was able to confirm that ARTS had been searched when applicable to specific access requests. One department provided evidence of limited value; however, I confirmed with the FOIP Coordinator for that department that ARTS is searched whenever applicable.

Evaluation

- [51] The common approaches described above have the benefit of ensuring that information about searches is documented. This enables these departments to later be in a position to defend that they have made reasonable efforts to search for records responsive to an access request, should an applicant challenge the department in that regard and ask the OIPC to review the adequacy of the search.
- [52] Departments that do not document searches, or that document searches in a limited way, informed me that this practice saves time in processing access requests. However, this approach clearly increases the risk that a department will not be able to meet its evidentiary burden to demonstrate that it has conducted an adequate search in the event of a challenge by an applicant, or a review by the OIPC. As a review can take months, or even years to complete, it is difficult to imagine how a public body would be able to demonstrate the adequacy of a search without contemporaneous documented evidence to rely on.
- [53] Documenting searches at the time the search is conducted is necessary in order to be able to demonstrate that an adequate search was performed, should the need arise.⁶ Perhaps

⁶ Order 97-003, available at www.oipc.ab.ca/media/124417/97-003Order.pdf, establishes that public bodies bear the burden to show that an adequate search has been conducted. Service Alberta Guidelines, available at <http://servicealberta.gov.ab.ca/foip/resources/chapter-3.cfm>, also confirm this point.

more importantly, a lack of documentation could erode trust in the integrity of the access request response process, leading applicants to question whether public bodies discharged their duties under the FOIP Act.

Deciding to Search for Responsive Records in ARTS

- [54] I asked FOIP Coordinators to explain the process they follow in their department to identify whether ARTS would contain records responsive to a given access request.
- [55] When it comes to locating responsive records that may exist in ARTS, fifteen FOIP Offices reported that they rely on employees in each program area to search ARTS and identify ARs and attachments.
- [56] Four departments stated they generally follow the approach just described, but added that they specifically ensure that their designates (to whom the call for records is sent) include individuals who work in the department's Ministerial Correspondence Unit (MCU) as well as ARTS "super users" in executive offices, in order to ensure that ARTS is searched for every request.

Evaluation

- [57] FOIP Offices explained that they ask individuals in program areas to search ARTS primarily because these individuals are the departments' subject matter experts, as well as the record creators. In addition, these FOIP Offices reported that ARTS is just one of many information systems that may contain records responsive to an access request.
- [58] Overall, both approaches seem to ensure that searches are comprehensive; all departments said they would involve program areas in searches, or others as applicable. The main difference in approach seems to be in the timing. That is, who needs to be involved at what stage of the process, which risks delaying the time it takes to respond to an access request.
- [59] In my view, it would be useful for FOIP Offices to remind staff, including departments' MCU and ARTS "super users", through the call for records, that records may exist in many different forms, including electronic information systems, and that a comprehensive search for responsive records must include a search of such systems.

Process if Records Are Thought To Be in ARTS

- [60] Finally, I asked FOIP Offices in all departments to specifically detail the steps they would take if they received an access request that generally referred to ARTS, or included a specific AR number.⁷
- [61] The majority of the FOIP Coordinators – 16 departments – said that their offices would process access requests referencing ARTS or AR numbers the same way they treat all requests. Most reported that they would not deviate from the standard process when it comes to disseminating the call for records for these access requests. However, these

⁷ When Ministers or Deputy Ministers write to a person, their letters would typically include the related AR number.

FOIP Offices also indicated that they would include their department's MCU if the circumstances warranted doing so.

- [62] Three departments reported that for access requests mentioning ARTS, including an AR number, or referring to record types generally held in ARTS, they would primarily follow their normal approach but supplement it in a few different ways. Some FOIP Coordinators indicated that their office would be more likely to specifically target ARTS "super users" in their departments to assist in the search, or that the FOIP Office staff themselves would on occasion search ARTS as a way to validate that records received from program areas capture the entire set of responsive records. These FOIP Offices stated that any discrepancies observed between their ARTS searches and the records provided by program areas would result in follow-up correspondence with the applicable unit.

Evaluation

- [63] FOIP Coordinators following the common approach described above reported they are generally confident that their normal search process adequately covers all information systems and holdings by default. As a result, they believe there is no need to deviate from their normal process, even when a specific information system or record type, such as ARTS or AR attachments, is mentioned in an access request. This explanation speaks to the FOIP Coordinators' confidence in the processes their offices have put in place.
- [64] Nonetheless, the alternative approach described above (e.g. to supplement the normal process by targeting "super users" in the call for records) appears to be a best practice as far as searching ARTS is concerned, since these "super users" are often involved when ARs are created and when they conclude, based on the system's design. Not only is it very thorough, but it does not appear to add a significant burden for those conducting a search.

Findings

- [65] Overall, I found that GoA departments, in responding to access requests where relevant records may be available through ARTS, make every reasonable effort to assist applicants and to respond to each applicant openly, accurately and completely, as required by section 10(1) of the FOIP Act.
- [66] This is a general finding and does not implicate past, current or future OIPC reviews of GoA department responses to access requests made under the FOIP Act, since this investigation did not look at any specific response package, but rather focused on records search and retrieval processes.
- [67] In response to my specific questions, GoA FOIP Coordinators confirmed that departments:
- Ensure that searches are conducted when access requests are made under the FOIP Act
 - Train and inform employees about their responsibilities under the FOIP Act

- Include ARTS when searching for responsive records, recognizing that it is one of many information systems that may hold records

[68] My investigation, however, also highlighted some significant differences in how GoA departments search for records in general, as well as search for records in ARTS. In particular, I noted that:

- Practices for communicating a call for records appear to be dependent on the size of the FOIP Office and the department. Using a network of designates is common in larger FOIP Offices and departments; smaller offices and departments tend to rely on the expertise of the FOIP Coordinator. The risk with this latter approach is that organizational knowledge may not survive a FOIP Coordinator's departure, which could create significant transition challenges for the departments in question.
- Regular, ongoing FOIP Act training for all department staff, and providing additional training to designates or staff who may be more intimately involved in searches, is a best practice, as it leverages the reach of the FOIP Office and empowers designates to become effective "FOIP champions" in their program area. Practices vary by FOIP Office, however, and are primarily dependent on the size of the FOIP Office and department.
- While it may be more time consuming to create and maintain a record of searches, using a dedicated form to document steps taken to search for responsive records is necessary for a public body to demonstrate that it has made reasonable efforts to conduct an adequate search in the event an applicant challenges the department or requests that the OIPC review the adequacy of the search. A lack of documentation could erode trust in the integrity of the access request response process, leading applicants to question whether public bodies properly discharged their duties under the FOIP Act.
- Some departments rely on employees in each program area to decide to search ARTS to identify potentially responsive ARs and attachments; others specifically direct the call for records to individuals in departments' MCU as well as ARTS "super users". The main difference in approach seems to be in the timing. That is, who needs to be involved at what stage of the process, which risks delaying the time it takes to respond to an access request.
- Most FOIP Offices reported that they follow their standard process for disseminating the call for records, even where an access request specifically references ARTS or an AR. Many reported they would include their department's MCU if the circumstances warranted doing so, or direct the call for records to ARTS "super users" in their departments. Some FOIP Office staff search ARTS themselves. In my view, supplementing the normal process by targeting "super users" and MCU staff is a best practice that ensures searches are thorough, without adding a significant burden for those conducting the search.

Recommendations

- [69] Based on the findings, I recommend that GoA departments:
1. Establish and implement call for records practices that are less dependent on the knowledge or experience of individual FOIP Coordinators.
 2. Provide regular, ongoing FOIP training for all GoA staff, with more in-depth supplemental training for staff who are involved intimately in searching for responsive records.
 3. Develop a GoA-wide dedicated form to be used by all departments to create and maintain a record of searches in order to consistently and systematically require department employees to document steps taken to identify and locate records that may be responsive to an access request.
 4. Remind staff (including departments' MCU staff and ARTS "super users"), through the call for records, that records may exist in many different forms, including electronic information systems, and that a comprehensive search for responsive records must include a search of such systems.
- [70] The FOIP Coordinators I consulted with in conducting this investigation are seasoned information management professionals who have a thorough understanding of the functioning of their departments, and intimate knowledge of the FOIP Act and its application.
- [71] Recommendations made in this report are intended to assist these professionals in communicating the duties and obligations set out in the FOIP Act to GoA employees who are not primarily responsible for the administration of the FOIP Act, with the goal of ensuring that consistent, comprehensive records searches are conducted.
- [72] I would like to thank all the FOIP Coordinators with whom I consulted for their cooperation in this investigation.

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