

Freedom of Information & Protection of Privacy

Annual Report 2016 - 2017

Alberta 

October 2019

Honourable Nathan Cooper
Speaker
Legislative Assembly of Alberta
325 Legislature Building
10800 – 97 Avenue
Edmonton, Alberta
T5K 2B6

Dear Sir:

In accordance with section 86 of the *Freedom of Information and Protection of Privacy Act*, I present the 21st Annual Report of the operation of this Act for the fiscal year 2016-17.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Nate Glubish". The signature is written in a cursive, flowing style.

Honourable Nate Glubish
Minister, Service Alberta

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1. Highlights

Since the passage of Alberta's *Freedom of Information and Protection of Privacy (FOIP Act)* more than two decades ago, there has been a tremendous shift in how people receive information. Digital, on-demand services have become the norm and this has greatly impacted how public bodies provide services and information to the public. In moving from a paper-based world to a digital one, new challenges emerge to ensure that information, especially personal information remains safe and secure. Digital and online access is the way of the future and all public bodies must ensure all of the avenues of access are compliant with the FOIP Act.

In 2016-17, the government worked to develop enhanced on-line services through MyAlberta Digital ID (MADI) program. Alberta is the first jurisdiction in Canada to offer a trusted digital identity that meets the criteria set out in the Pan-Canadian Trust Framework. Albertans can access services online that were previously limited to in-person services because of the need for assurance of the person's identity. This is an important milestone in the transformation of government services to a secure, digital online environment.

The government also worked to improve responsiveness to Albertans looking for information on the FOIP Act and the *Personal Information Protection Act (PIPA)* by launching its unified FOIP-PIPA Help Desk. Staffed by access and privacy specialists, the help desk provides individuals, public bodies, and private sector organizations with information and general guidance on Alberta's access and privacy legislation, as well as their rights and obligations. Albertans can contact the FOIP-PIPA Help Desk at 780-427-5848 (toll-free by dialing 310-0000 first) or by email at sa.accessandprivacy@gov.ab.ca.

Over time, access requests received by public bodies have been increasing in complexity and volume. Since 2004, the system used by the government and, to a lesser degree by Alberta local public bodies to track, process, and report on this information has fallen behind. To support increased efficiencies, an important initiative began in 2016-17 to look at a suitable replacement that will carry FOIP tracking, processing, and reporting into the next era of the information age.

2. FOIP Statistics – Requests to Government Departments, Agencies, Boards and Commissions

Access to information continues to increase in importance as an essential support of democracy. The government continued commitment to openness and the rights of access guaranteed in the FOIP Act further support transparency.

2.1 Providing Access to Public Records

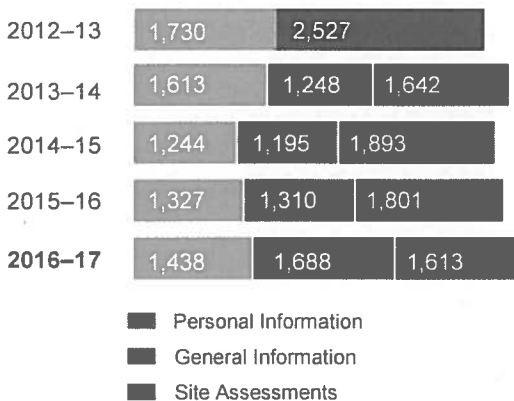
In fiscal year 2016-17, access requests to provincial government public bodies totaled 3,126 - the highest number ever recorded.

Provincial government public bodies, which include government departments, agencies, boards, and commissions, received 3,126 access requests, which was an increase of 18 per cent from 2015-16 (with fluctuation within personal and general information re-quests). Of these, 54 per cent were for records of general information, and 46 per cent were requests from individuals for records of their own personal information.

Of the 3,126 total general and personal information requests, 2,852 were made directly to government departments

with the remainder going to 274 other provincial government public bodies, such as agencies, boards, and commissions.

Number of FOIP Requests During the Last Five Years*



*Excludes requests for correction of personal information. "Site Assessments" are access requests to Environment and Parks that result in no records because the records are publicly available through the online Environmental Site Assessment Repository. Since 2013-14, site assessment requests are no longer counted in the total number of access requests.

2.1.1 Top 10 Requests for Information in 2016-17

General Information		Personal Information	
Environment and Parks	216	Human Services	672
Executive Council	168	Justice and Solicitor General	331
Energy	136	Children's Services	149
Health	113	Community and Social Services	69
Labour	92	Transportation	33
Justice and Solicitor General	92	Health	31
Transportation	83	Provincial Archives	28
Treasury Board and Finance	78	Advanced Education	27
Education	69	Workers' Compensation Board	21
Service Alberta	59	Service Alberta	10
		Alberta Motor Vehicle Industry Council	10

- Environment and Parks, Executive Council, and Energy were the top three departments, for number of general information requests received, for the second consecutive year.
- For the second consecutive year, Service Alberta is in the top 10 for general information requests.
- The average number of general information requests received by the top 10 provincial government public bodies is 110.
- General information requests for Environment and Parks increased by 51 per cent between 2015-16 and 2016-17.
- In January 2017, Human Services was reconfigured to form two new ministries - Children's Services, and Community and Social Services. Human Services and its new ministries of Children's Services and Community and Social Services held the top four spots for receiving the most personal information requests between April 1, 2016 and March 31, 2017.
- Human Services, Justice and Solicitor General, Provincial Archives of Alberta, Workers' Compensation Board, Transportation, and Health have been consistently in the top 10 for personal information requests.

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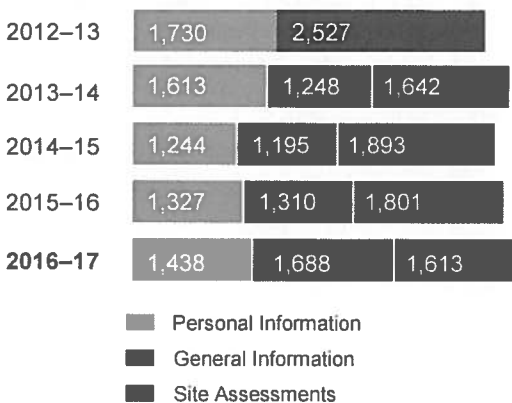
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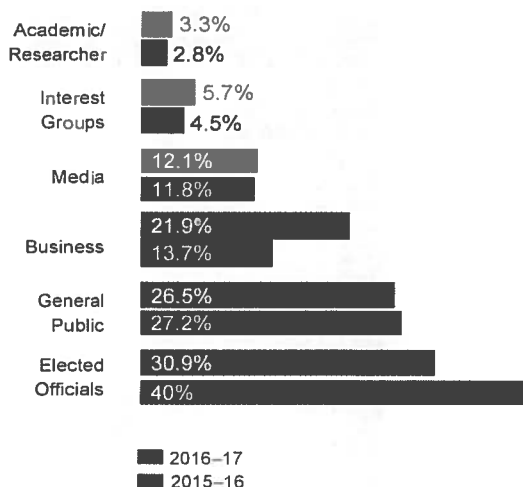
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212 Who Made Access Requests

Who Made Access Requests



The number of requests from individuals for access to their own information remained consistent between 2015-16 and 2016-17, and made up nearly half of the total access requests received by provincial government public bodies (46 per cent of the total 3,126 requests made). Combined with applicants in the “general public” category who made general information requests (26.6 per cent), individuals or members of the general public were responsible for about 60 per cent of the total access requests made to provincial government public bodies in 2016-17. This indicates Albertans and other applicants continue to exercise their information rights under the FOIP Act to gain access to their own information and to gain access to the general records of provincial government public bodies.

“Elected officials” remained the category of applicants that submit the most general information requests to provincial government

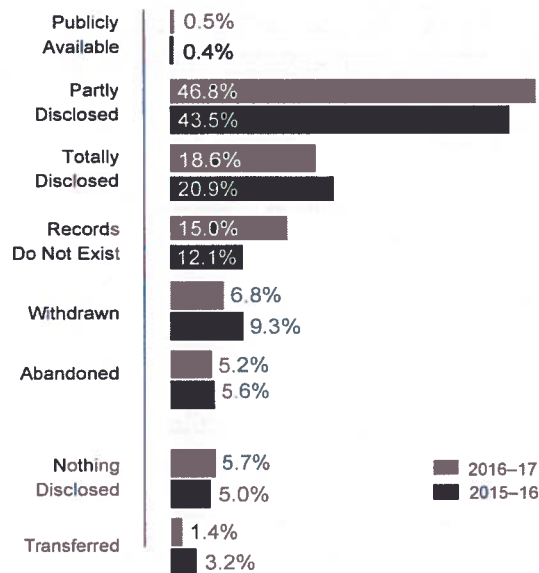
public bodies. This continues to be a tool used to hold the government accountable for its decision-making on behalf of Albertans. After elected officials and public, businesses are the next highest category of applicants making general information requests.

213 Information Released to Albertans

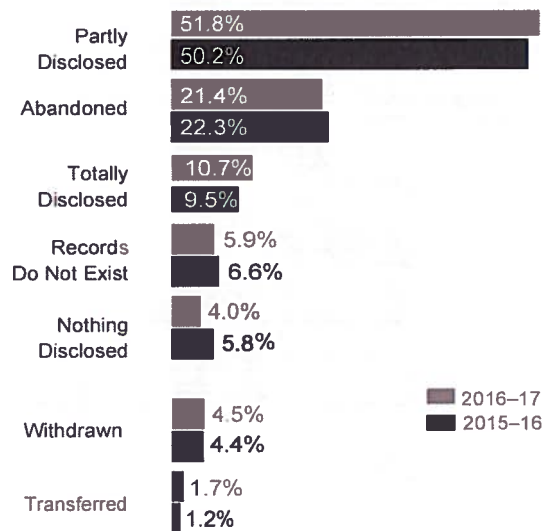
In 2016-17, majority of access requests made to the provincial government public bodies resulted in responsive records either being totally or partially disclosed. In fact, of the 1,140 general information requests that had responsive records, 1,042 or 91 per cent of those requests were partly or totally disclosed or were publicly available. For the 920 personal information requests, which had responsive records, 866 or 94 per cent of those requests were partly or totally disclosed. Those healthy percentages continue to support the goals of openness and transparency (same magnitude as the previous fiscal year).

Publicly available records were previously reported in a grouping that included those with “nothing disclosed”. This did not accurately reflect the fact that this information may be made publicly available to an applicant, without the need to make a formal access request under the FOIP Act. To better reflect the high degree by which provincial government public bodies are providing access to records outside of the formal FOIP access processes, the categories “nothing disclosed” and “publicly available” have been separated for general information requests.

How Requests Were Processed: General Information Disposition



How Requests Were Processed: Personal Information Disposition



*"Publicly available" records are not generally a category of disposition applied to personal information requests, because usually there are no personal information requests where records are publicly available.

Of the total general information completed:

- 71 per cent had responsive records (totally disclosed, partly disclosed and nothing disclosed).
- Remaining 29 per cent of requests were either abandoned, withdrawn, transferred, publicly available, or records do not exist.

Of the total personal information requests completed:

- 66 per cent had responsive records (totally disclosed, partly disclosed and nothing disclosed).
- Remaining 34 per cent of requests were either abandoned, withdrawn, transferred, publicly available, or records do not exist.

2.14 Why Information was not Released

The right of access to records is a fundamental purpose of the FOIP Act. However, access and the disclosure of record(s) can be a matter of balancing interests. On occasion, public officials need to conduct free and frank discussions about policy options, weighing risks and benefits, and try to make the best decision. In order to support decision making, sometimes information is protected from disclosure. However, this always depends on the context of the situation and what the FOIP Act allows.

Exceptions to disclosure can be characterized in two ways: mandatory or discretionary. When a mandatory exception is applicable, the exception to disclosure must be applied to the information in the record. When a discretionary exception is applicable, specific criteria must be met and fulfilled before the exception can be applied. On a case-by-case basis, the head of a public body or delegate must make the appropriate decision to withhold information only where allowable under the FOIP Act and with full consideration of the principles of openness and transparency. A decision to withhold information is based on careful review and in consultation with public body staff that are knowledgeable about the content and context of the potentially responsive records.

Decision-makers weigh all factors in whether or not information qualifies for an exception and the information withheld should only be the minimum necessary to support the purpose of the discretionary exception applied to withhold it.

In addition to exceptions to disclosure of information in specific and limited circumstances, there are also some records exempt, or excluded from all, or part of the FOIP Act. This means that these records cannot be accessed through a request under the FOIP Act. However, that does not mean that individuals who seek that information are denied access to the records, rather these records may be available in other ways.

Of the 381 times that an exemption or exclusion to disclosure was applied to information in records, more than 58 per cent of that information was accessible through other avenues of access such as the courts for court records (38 per cent) or registry agents to authorized recipients (20 per cent). Both of these alternative avenues of access have some limitations; however, the important point is the application of these exemptions does not always mean the records are inaccessible.

Exceptions

Sections of the Act Used	Number of Information Occurrences
17 Third party - personal information	1,264
24 Advice from officials	700
27 Privileged information	430
21 Intergovernmental relations	203
25 Harmful to economic or other interests of a public body	194
16 Third party - business/tax interests	186
20 Law enforcement	170
22 Cabinet and Treasury Board confidences	99
29 Information otherwise available to the public	54
18 Harmful to individual or public safety	28
19 Confidential evaluations	27
26 Testing procedures, tests and audits	25
12 Refuse to confirm or deny existence of a record	18
23 Local public body confidences	1

Exclusions

Sections of the Act Used	Number of Information Occurrences
6(4)(b) Ministerial briefing for a session of the Legislative Assembly	37
6(4)(a) Ministerial briefing for a new portfolio	8
6(7) Audit records of the Chief Internal Auditor of Alberta	1

Exemptions

Sections of the Act Used	Number of Information Occurrences
4(1)(a) Court/judicial records	144
4(1)(l) Registry records	78
4(1)(q) Communications between MLAs and/or members of Executive Council	60
5 Other legislation paramount	10
4(1)(p) Speaker/MLA records in Legislative Assembly Office	10
4(1)(u) Health information as defined in the Health Information Act	7
4(1)(o) Personal/constituency records of members of Executive Council	7
4(1)(k) Incomplete prosecution records	5
4(1)(f) Advice to the Ethics Commissioner re: Conflict of Interest	4
4(1)(b) (Quasi) judicial notes, communications, draft decisions	4
4(1)(g) Examination/test questions	3
4(1)(i) Post-secondary research material	3

3,780 exceptions/exemptions/exclusions applied in 2016-17, 1,930 (51 per cent) are mandatory and must be applied by the provincial government public bodies that identify them in records. Discretionary exceptions to the right of access may or may not be applied when they are identified. These were used in 49 per cent (1,850) of the times, that information was withheld.

2.15 Response Times

In 2016-17, the overall response time for processing FOIP requests under 60 days or less, decreased by 80 per cent in 2015-17 to 73 per cent in 2016-17, and conversely, the processing of FOIP requests over 60 days increased by the same amount in comparison with previous fiscal year. This change can be directly associated with increased FOIP request complexity, a trend that was identified and discussed in last year's Freedom of Information & Protection of Privacy Annual Report. In fact, the greater the FOIP request complexity (extensive and broad searches, number of records, consultation requirements, etc.), more often than not, the greater the amount of time is required to process them. Under the FOIP Act, public bodies have 30 calendar days to respond to an access request. However, occasionally, more time is required to handle a complex request, and it is necessary to go beyond the set 30-day time limit. The FOIP Act allows public bodies to request and use more time to process access requests.

Public bodies can take up to an additional 30 calendar days to process an access request if there is a large volume of records, numerous program areas and locations to search for records, and/or where consultation with other public bodies is required. Again, the FOIP Act allows a public body more time to fulfill its requirement to consult with a third party about its confidential and sensitive business information (e.g. trade secrets, commercial, financial, labour relations, technical, etc.), or personal information identified within the records responsive to an access request being processed. A proper and needed extension is taken only when it is necessary as public bodies recognize the principles of timeliness within the FOIP Act.

When a public body has no option remaining to extend time on its own, the FOIP Act also allows public bodies to take a time extension with the Information and Privacy Commissioner's permission. In order to do so, the public bodies must provide specific reasons to the Information and Privacy Commissioner as to why a greater period is required to process the request. According to the 2016-17 Office of Information and Privacy Commissioner (OIPC)'s Annual Report, public bodies from all across Alberta made 253 extension requests, a significant increase of 150 per cent from the previous fiscal year. Furthermore, 74 per cent of all these extensions were granted or partially granted by the OIPC – reflecting the strong and legitimate requirements for those extensions. In 2016-17, provincial departments requested 184 extensions, more than double the number in 2015-16 (82 extensions), while the number of total FOIP requests increased by 18 per cent. All of these facts demonstrate the increased complexity of FOIP requests, as well as the need for more time to process them properly.

30-60-60+ Data



Securing a new FOIP case management tool to track, process, and report on FOIP information will allow users to better identify areas for improvement and provide a better overall picture of timeliness in responding to access to information requests.

2.2 Privacy Compliance

Advances in digital technology, web-based applications, and online services (“digital services”) continue to present challenges to public bodies and the protection of personal information. On the one hand, individuals expect that online interaction with public bodies will be convenient and easy, including those services that involve the exchange of personal and even highly sensitive information. On the other hand, public bodies are bound by the duty contained in the FOIP Act to protect personal information. There are risks and benefits in digital service delivery.

Digital services are more responsive and better protected. As digital service delivery evolves, protection of personal information remains a chief consideration. As highlighted in this report, initiatives such as MyAlberta Digital Identity and MyAlberta verification services are examples of how the government developed digital service delivery with the protection of personal information built into the development.

Digital services can also share personal information more quickly and broadly. In light of this, adequate protection and security of personal information must also be in place. Technology also provides the ability to build options to protect personal information directly within the solution.

Public bodies must continue to be mindful of how they collect, use, or disclose personal information in digital service delivery, exactly as they have always been required to do so in paper and desk delivery.

We are also seeing increased video surveillance and digital image capture. This results in more personal information being captured and stored by public bodies in non-print formats. As such, questions are being raised about the viability of providing access to this information while ensuring that personal information is reasonably protected.

2.3 Increasing Capacity in the FOIP Community

In 2016-17, a number of OIPC inquiries and orders focused on FOIP Act compliance and practices across the government. One of the main issues in these inquiries and orders was the timeliness of responses to applicants requesting records.

The government understands the importance of establishing mechanisms for providing timely access to records and ensuring openness and a high level of service to applicants. In recognition of continuous improvement, the government has taken steps to promote better processes in access and privacy responses that support best practices across government.

Collaboration on a single, standardized sign-off form was a component of process improvements and an important step in harmonizing processes across the government. Enhanced training and sharing of best practices continues to improve efforts to make the government more effective, responsive, and accountable.

Internal processes, technology, and other practices are under review to improve response times and capacity issues. Measures to improve continue by increasing staff and resources, identifying relevant governance structures, and the proposed review and replacement of the current system used for FOIP tracking, processing, and reporting by the government.

2.4 Publications, Resources and Training

The government maintains a library of publications and resources to support the administration of the FOIP Act by public bodies across the province. These resources are available online, with some additional hard copy resources available through Alberta Queen's Printer.

Ongoing Training and Outreach

In 2016-17, Service Alberta continued its support for the University of Alberta, Faculty of Extension's annual National Access and Privacy Conference. Service Alberta staff members serve on the conference committee, provide resources for introducing speakers, participate in panels, and deliver workshops. This conference represents an important connection to the broader FOIP community in Alberta and in other jurisdictions to ensure that their work is in step with the trends and innovations happening in the access and privacy sector across Canada and internationally. Service Alberta also provides awareness sessions on access and privacy compliance. In 2016-17, sessions were delivered to MacEwan University Library

Science Students, as well as to the Association of School Business Officials of Alberta, Boyle Street Education Centre Charter School, FEI Canada, and Consentia. In addition, Service Alberta participated in the Public Law Career Day at the University of Alberta's Faculty of Law.

Online FOIP Modules for Government of Alberta

In 2016-17, Service Alberta's Corporate FOIP office began work to revise and modernize internal online tools for training. The focus was on the obligations all employees have within the public body to ensure access to records and protection of personal information. Increased accessibility and a more user friendly experience were considerations in the modernization of the internal online FOIP training. The efforts to modernize this training for the government has highlighted the need for similar improvements in the training that is available externally to all public bodies and private sector organizations in the province.

FOIP Networks

Service Alberta continues to provide networking and professional development opportunities by maintaining "Communities of Practice" for: provincial government public bodies, municipalities, post-secondary institutions (co-chaired with Advanced Education), and school jurisdictions (co-chaired with Education). Ten meetings are scheduled each year, held quarterly for the provincial government public bodies, and biannually for the local public body sectors, alternating between Edmonton and Calgary. A range of relevant content is covered at the meetings, including current trends and new sector-specific legislation, to refreshers on commonly encountered issues facing FOIP professionals across the province.

FOIP Instructor-Led Training

Service Alberta continued to collaborate with a contracted service provider to administer and provide FOIP training to attendees from all provincial government public bodies. For 2016-17, 12 instructor-led sessions were held in Edmonton and six in Calgary. Onsite training requests were received from a variety of provincial government public bodies where employers arranged for classes or training onsite.

FOIP Instructor-Led Training 2016-17

Type of Course	Onsite	Scheduled	Total
General Awareness (Half Day)	8	0	8
Introduction and Privacy (Full Day)	12	6	18
Access to Information (Full Day)	4	6	10
Managing a FOIP Program (Full Day)	2	6	8
Total	26	18	44

Type of Attendee	Number
Provincial Government Public Bodies	62
Local Public Bodies	804
Total	866

The number of advanced courses delivered to public bodies increased over the last fiscal year (2016-17). The delivery of "Access to Information" increased 25 per cent and the delivery of "Managing a FOIP Program" increased 14 per cent.

FOIP - PIPA Help Desk

The unified FOIP-PIPA Help Desk for the FOIP Act and the *Personal Information Protection Act* (PIPA) is maintained by subject matter experts in Service Alberta. It provides policy interpretation and general guidance but not legal advice.

Number of Help Desk Calls Responded 2016-17

FOIP Act	1,085
PIPA	669
Redirects*	185
Total	1,939

* For "Redirects" callers are assisted in finding the information they require elsewhere

The largest volume of inquiries related to the FOIP Act came from the public with 504 inquiries. The largest volume of inquiries related to PIPA came from for-profit organizations with 221 inquiries.

Cross-Department Processes - Internal to Government Departments

The same access requests, received by two or more public bodies, are considered cross-department requests in the government. These types of requests are normally for access to general information. Care is taken to ensure that support and co-ordination is put in place to assist departments in the processing of the request in a consistent, efficient, and timely manner. The focus remains on ensuring that internal decision

making requirements under the legislation are met, that any points of efficiency can be leveraged, and that the applicants are best served. For 2016-17, government departments, one less than 2015-16, received 23 cross-department access requests.

During 2016-17, the government reviewed the types of requests and issues that emerged during cross-government request processes. A number of themes emerged as candidates for new and revised policy direction, such as to assist applicants, fees and fee waivers. Further work is necessary, and collaboration between departments will identify best practices that can leverage the expertise that exists within the government's FOIP community. While the cross-department request process is becoming more refined and standardized, Service Alberta continues to monitor the effectiveness of the processes and the need to ensure they do not, or minimally, affect processing timelines. As well, the primary focus is to ensure that the process facilitates access to information in support of better outcomes for Albertans and other applicants seeking information through the FOIP Act.

2.5 National Initiatives

Service Alberta continues to be part of the national Privacy Subcommittee reporting to the Public Sector Chief Information Officer Council (PSCIOC) and the Public Sector Service Delivery Council. Participation in cross-jurisdictional committees provides the opportunity to share information and expertise with counterparts across Canada, as well, ensure Alberta continues to be aligned with national trends related to access and privacy.

Teleconference meetings are held once a month, and a face-to-face meeting takes place annually. For 2016-17, the face-to-face meeting was held in Toronto, ON on October 20-21, 2016. Service Alberta did not attend in person, but participated via teleconference to minimize travel costs.

Discussion topics for 2016-17 included:

- Access and Privacy legislation review and amendments;
- Privacy compliance and audit programs;
- Big data and privacy; and,
- Privacy and security (cloud infrastructure).

3. FOIP Statistics – Requests to Local Public Bodies

“Local public bodies” include municipalities and other local governing bodies; schools; post-secondary institutions; health care bodies; housing management bodies; police services and commissions; Metis Settlements; public libraries; drainage districts; and irrigation districts.

Access to records held by local public bodies is an essential tool for Albertans and other applicants to interact with local public bodies. Often, local public bodies have a closer and immediate impact on the lives of Albertans. As such, access to records of an individual's own personal information or general information allows for increased accountability and transparency from these public bodies as well.

3.1 Providing Access to Public Records

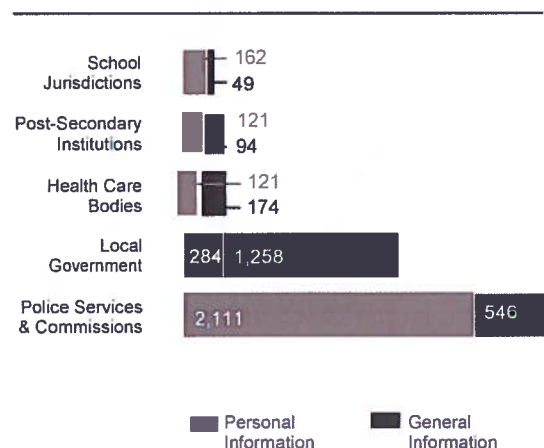
For 2016-17, 4,920 access requests were made to local public bodies. Of this total, 43 per cent were for general information and 57 per cent were personal information requests.

Police Services and Police Commissions received 54 per cent of the 4,920 access requests and most of those 79.5 per cent were made by individual's requesting their own personal information.

Number of Requests to Local Public Bodies (General Information and Personal Information)



Sectors that Receive Access Requests



For the fourth consecutive year, the top three sectors receiving general information requests remained unchanged:

- **Local Government:** Received 1,258 requests, representing 59.3 per cent of the general information requests and 25.6 per cent of all requests received by local public bodies.
- **Police Services and Commissions:** Received 546 requests, representing 25.7 per cent of the general information requests and 11.1 per cent of all requests received by local public bodies.
- **Health Care Bodies:** Received 174 requests, representing 8.2 per cent of the general information requests and 3.5 per cent of all requests received by local public bodies.

3.1.1 Top 10 Requests for Information in 2016-17

The top 10 identifies the public bodies receiving more general information requests than others and it is not surprising these continue to be some of the larger local public bodies in Alberta. The City of Edmonton had the most general information requests in 2016-17, followed by the City of Calgary. This was a change from the previous two fiscal years (2015-16 and 2014-15), when Calgary finished ahead of Edmonton. The third spot is filled by Calgary Police Services.

The top three local public bodies that had the most personal information requests were, in order, Calgary Police Service, Edmonton Police Service, and Lethbridge Police Service. This was the fourth consecutive fiscal year that the three police services occupied the top-three positions for personal information requests among public bodies.

Top 10 List for General Information Requests:

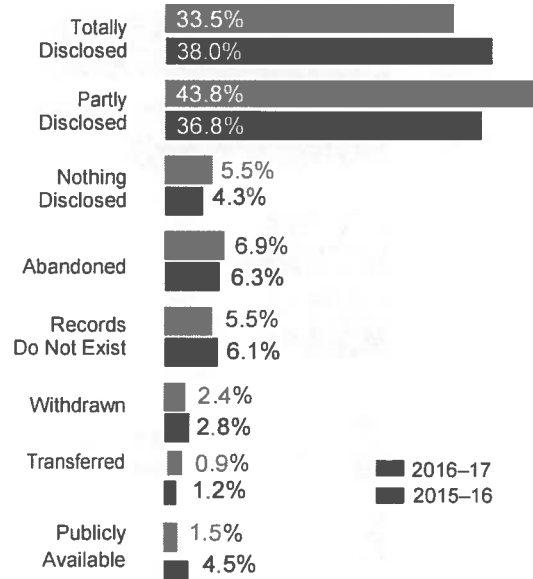
City of Edmonton	389
City of Calgary	296
Calgary Police Service	206
Alberta Health Services	169
Lethbridge Regional Police Service	163
Edmonton Police Service	158
Rocky View County	78
City of St. Albert	53
Town of Stony Plain	51
City of Red Deer	46

Top 10 List for Personal Information Requests:

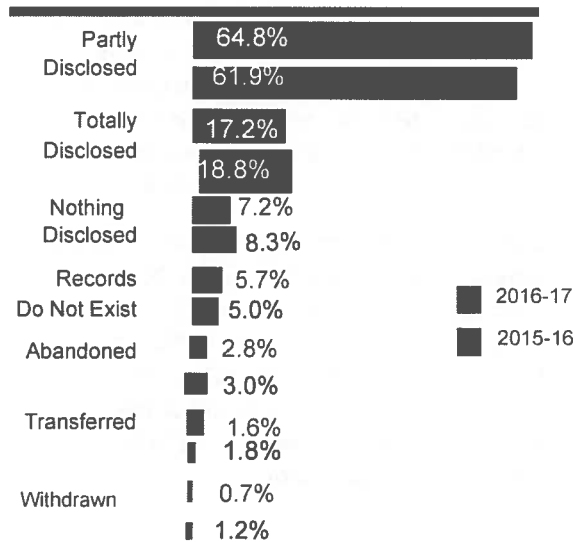
Calgary Police Service	1,392
Edmonton Police Service	516
Lethbridge Regional Police Service	134
Alberta Health Services	120
City of Edmonton	113
City of Calgary	81
Medicine Hat Police Service	62
MacEwan University	55
Parkland School Division No. 70	44
Greater St. Albert Roman Catholic Separate School District No. 734	37

Information Released to Albertans

How Access Requests were Processed by Local Public Bodies: General Information Disposition:

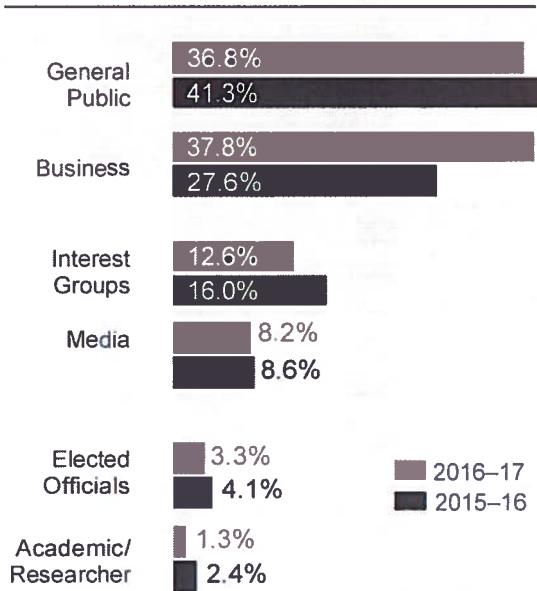


How Access Requests were Processed by Local Public Bodies: Personal Information Disposition:



3.1.2 Who Made Access Requests

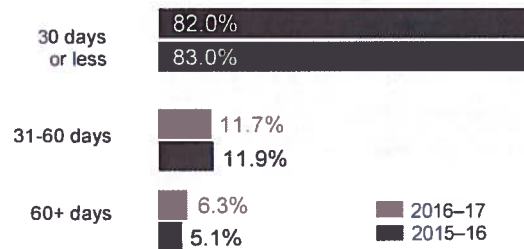
Who Made Access Requests to Local Public Bodies (category of applicant):



3.1.3 Response Times

Local public bodies are very timely in responding to applicants with 82 per cent of files processed in 30 days or less.

30-60-60+ Data for Local Public Bodies



In 2016-17, individuals seeking their own personal information comprised 57 per cent of the total FOIP requests received by local public bodies (2,799 of the 4,920 access requests received in total). Of the general information requests received, businesses submitted 38.4 per cent of the requests, followed by the public at 38 per cent.

However, when combining both personal and general requests, individuals and the public comprised 72.7 per cent of the total number of requests made in local public bodies in 2016-17. This indicates that Alberta has an actively engaged populace that is aware of the tools available to obtain personal records and records of general information.

Contact Information

FOIP Services

Service Alberta

Office hours: Monday to Friday, 8:15 a.m. to 4:30 p.m.
Office phone: 780-422-2657
FOIP-PIPA Help Desk: 780-427-5848
Toll free: In Alberta, dial 310-0000 then enter 780-427-5848
Fax: 780-427-1120
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Website: www.servicealberta.ca/foip
FOIP Statistics: www.servicealberta.ca/foip/resources/statistics.cfm

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