

Office of the Information Commissioner Update

Morgan Chapman | Havlik Consulting Group

Jody Woods | Union of BC Indian Chiefs

National Claims Research Directors Meeting

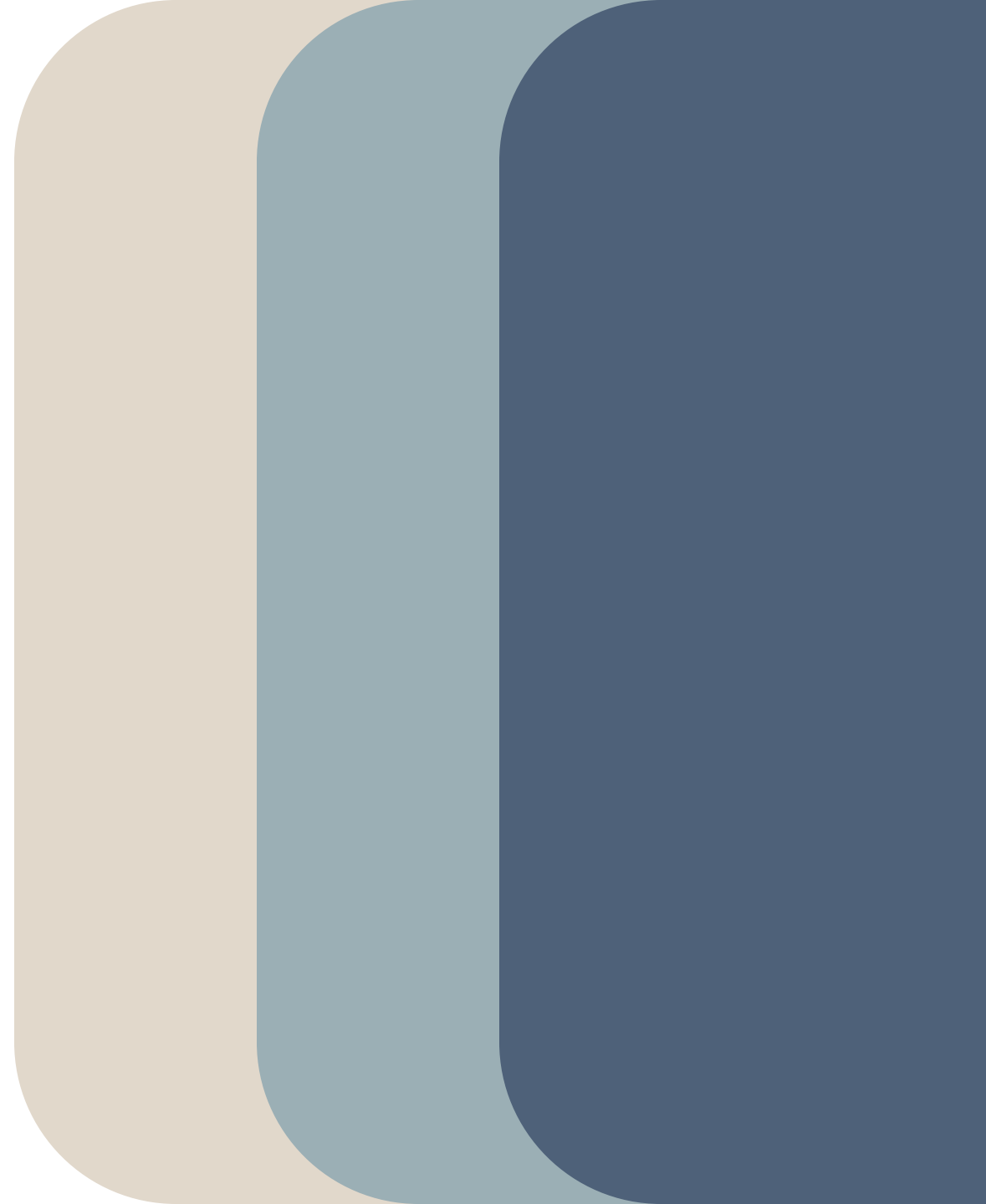
Ottawa, ON

May 14, 2025



Brief Overview

- In November 2024, Allison Knight (Sr Director of Investigations) joined the NCRW to speak on the role of the Office of the Information Commissioner (OIC).
- The ability of the OIC to trigger systemic investigations was raised as a potential relief mechanism for NCRD to pursue related to broad ATIP issues at CIRNAC/ISC.
- The following update provides details on how to trigger a systemic investigation, to inform our ATIP discussions tomorrow.



OLC Systemic Investigations

- Intended to address broad, systemic issues rather than individual complaints
- The Commissioner may decide to initiate a systemic investigation in the following circumstances, among others:
 - Becomes aware of widespread matter related to requesting or obtaining access to records
 - identifies patterns of conduct or systemic deficiencies (e.g. similar complaints frequently made about the same institution or about access to the same type of information).

Systemic Investigation of CRINAC/ISC

Based on the information gleaned from her investigations, the Commissioner does not have grounds for launching a systemic investigation against CIRNAC and ISC at this time.

How Can The NCRD Trigger an Investigation?

- *E-mail or letter*
 - *Be as specific and descriptive as possible*
- *Provide concrete examples of the challenges that you wish to raise*
 - *Include supporting documents when possible*

Past Systemic Investigation Triggers

Access at issue: Challenging the status quo

- Understand 42% increase in ATI requests
- Evaluate complaints against IRCC (a 670% increase over prior years)
- Points to breakdown of other information access processes ★

Access at issue: The unsustainable status quo

- Follows up to 2021 IRCC report as CBSA receives the same inquiries and CBSA showed similar pattern of exponential request & complaint growth
- Is directly tied to same issues in IRCC report.

Access at issue: The challenge of accessing our collective memory

- Significant public criticism of LAC by Journalists, Academics & others re: wait times ★
- Lack of responses to ATI requests ★

Past Systemic Investigation Triggers

Access at issue: Nine recommendations regarding the processing of access requests at National Defence

- DND's overall processing of requests
- Allegations DND withheld information in connection with pre-trial hearings of a Vice-Admiral
- DND withheld information in past ATI requests ★
- Addresses impact of COVID on ATI processing ★

Access at issue: The need for leadership

- RCMP failure to meet request timelines ★
- RCMP failure to provide representation to OIC during delay investigations

What this tells us...

- Failure to meet legislated response timelines on FORMAL requests is a sufficient trigger.
- Inappropriate application of the *Access to Information Act* can be investigated, where evidence of such breaches is present.
- Public criticism of such failures can aid in identifying a department for investigation.
- Past investigations have pointed to the breakdown of other access processes (i.e. CIRNAC/ISC informals) that would have met requestor needs.