



16th Legislative Assembly of the Northwest Territories

Standing Committee on Government Operations

Report on the Review of the
2009-2010 Annual Report
of the Information and Privacy
Commissioner of the
Northwest Territories

Chair: Mr. Kevin Menicoche

MEMBERS OF THE STANDING COMMITTEE ON GOVERNMENT OPERATIONS

Kevin Menicoche
MLA Nahendeh
Chair

Robert Hawkins
MLA Yellowknife Centre
Deputy Chair

Glen Abernethy
MLA Great Slave

Jane Groenewegen
MLA Hay River South

Norman Yakeleya
MLA Sahtu

COMMITTEE STAFF

Jennifer Knowlan
Committee Clerk

Colette Langlois
Committee Analyst

**STANDING COMMITTEE ON
GOVERNMENT OPERATIONS**

**REPORT ON THE REVIEW OF THE
2009-2010 ANNUAL REPORT OF THE
INFORMATION AND PRIVACY COMMISSIONER
OF THE NORTHWEST TERRITORIES**

TABLE OF CONTENTS

Introduction.....	1
Recommendations.....	1
Comprehensive Review of the <i>Access to Information and Protection of Privacy Act</i>	2
Review of the Fee Schedule.....	2
Recommendation 1	2
Disclosure of Salaries and Bonuses Paid to Senior Employees of Public Bodies.....	3
Recommendation 2.....	3

STANDING COMMITTEE ON GOVERNMENT OPERATIONS

REPORT ON THE REVIEW OF THE 2009-2010 ANNUAL REPORT OF THE INFORMATION AND PRIVACY COMMISSIONER OF THE NORTHWEST TERRITORIES

INTRODUCTION

The Standing Committee on Government Operations reviewed the 2009-2010 Annual Report of the Information and Privacy Commissioner at its meeting on May 16, 2011. The Committee would like to thank Ms. Elaine Keenan Bengts for her report and for her appearance before the Committee.

The Information and Privacy Commissioner (IPC) is an independent officer of the Legislative Assembly. Her primary role is to review and make recommendations on public bodies' decisions related to the Northwest Territories' *Access to Information and Protection of Privacy Act* (the *ATIPP Act*). The *ATIPP Act* requires that public bodies demonstrate their accountability by making information accessible to the public while at the same time protecting the privacy of individuals.

The Committee is pleased to bring forward the following recommendations that were raised by the IPC in her annual report.

RECOMMENDATIONS

Comprehensive Review of the *Access to Information and Protection of Privacy Act*

As in her 2008-2009 Report, the Information and Privacy Commissioner recommended a comprehensive review of the *ATIPP Act*. The *Act* was passed in 1994, long before email, smart phones and flash drives were an everyday part of government business. As well, the IPC and Standing Committees have made a number of recommendations over the years for amendments to the *Act* that have not yet been addressed by Government. For example, a recommendation repeated in the current report is for the inclusion of a provision to give the IPC the discretion to expand the limitation period for seeking a review to an access to information request. This recommendation was adopted by the Committee in its

report on the IPC's 2006-2007 and 2007-2008 annual reports. In its February 2010 response to this Committee report, the GNWT indicated that the Department of Justice would review the timeframes involved. To the Committee's knowledge, this review has never taken place. Another example is the long-standing recommendation for municipal access to information and protection of privacy legislation.

The Committee agrees that it is time for a complete review of the *Act*, which will provide an opportunity to reconsider all of the IPC's previous recommendations, recently amended access to information and privacy legislation in other Canadian jurisdictions, and changes in information and communications technology. A review at this time will also help to inform the health privacy legislation that is currently under development to ensure that it is as up-to-date as possible.

As the Committee will be supporting a formal motion for a comprehensive review of the *Act*, a specific recommendation is not included in this report.

Review of the Fee Schedule

The *ATIPP* Act allows public bodies to charge fees for providing access to records. The IPC's report details a complaint made to her office in which a public body assessed a "wildly overestimated" fee of \$7,500 for providing information. This issue brought to the IPC's attention problems with the way some of the line items in the fee schedule are worded, which make interpretation difficult. Further, in the IPC's opinion, the public body in this case "used the fee provisions in a clear attempt to limit the right of an individual to challenge the policies of the public body".

The Committee agrees with the IPC that "the fee provisions should never create a situation in which it is financially impossible for the public to gain access to public records", and supports her recommendation for a review of the fee schedule, and in particular the wording of the line items for which fees may be charged.

Recommendation 1

The Standing Committee on Government Operations recommends that the Government of the Northwest Territories review the fee schedule to the *Access to Information and Protection of Privacy Act* to ensure that it is clearly worded and does not place an undue cost on persons requesting access to information.

Disclosure of Salaries and Bonuses Paid to Senior Employees of Public Bodies

Further to two complaints where access to information about the salaries and bonuses paid to senior employees of public bodies was denied, the IPC recommends a requirement for public bodies to proactively disclose bonuses paid to their employees, within a \$1,000 range. She further recommends that consideration be given to legislation for proactive disclosure of salaries paid to senior employees of public bodies. As outlined in the IPC's report, such disclosure would be consistent with practices in other Canadian jurisdictions.

The Committee agrees with the IPC that the public is at least entitled to know what senior employees are being paid in bonuses, even if the amounts are given as a range.

Recommendation 2

The Standing Committee on Government Operations recommends that the Government of the Northwest Territories institute requirements for proactive disclosure of employee bonuses and the salaries of senior employees, or bring forward legislation to this effect if legislation is necessary.

CONCLUSION

The Committee commends the continuing efforts of Ms. Keenan Bengts to promote and improve access to information and protection of privacy in the Northwest Territories, and looks forward to her 2010-2011 annual report.