



**GOVERNMENT OF THE NWT RESPONSE TO THE STANDING COMMITTEE ON
ACCOUNTABILITY AND OVERSIGHT REPORT 4-15(4) ON THE REVIEW OF THE
INFORMATION AND PRIVACY COMMISSIONER'S ANNUAL REPORT 2003-2004**

GNWT Response to 2003-2004 Recommendations

The NWT *Access to Information and Protection of Privacy Act* ("the Act") became law in 1996. It was created to promote access to information that the government creates and receives and to protect individual privacy rights related to that information.

Under the Act, the Information and Privacy Commissioner is an independent officer appointed for a five-year term. The Act requires the Commissioner to file an annual report on his/her activities. The Commissioner may include in his/her report recommendations for amending the legislation to improve the Act's efficiency and effectiveness.

The Standing Committee on Accountability and Oversight (AOC) conducted a review of the Information and Privacy Commissioner's annual report. Their report of the review was tabled in the Legislative Assembly on October 25, 2005. It included eight recommendations.

The following is the Government of the NWT (GNWT) response to the recommendations contained in the "Committee Report 4-15(4) on the Review of the Information and Privacy Commissioner's Annual Report 2003-2004":

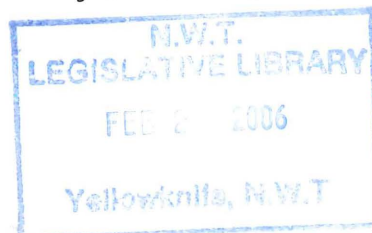
Recommendations

- 1. The AOC recommends that the Access to Information and Protection of Privacy Directory be reviewed annually and updated as required under Section 70 of the Act.**

Response

Agreed. The Department of Justice will review the Access and Privacy Directory annually. The Department will continue to routinely update and distribute the Access and Privacy Directory following any amendments to the Act, or significant changes to the Access and Privacy Coordinator contact information. The Access and Privacy 2006 Directory posted on the Justice website and is now also available through the Government of the NWT website publications page. Paper copies of this version will be sent to all NWT Public Libraries in March 2006.

- 2. The AOC recommends that Schedule A of the Access to Information and Protection of Privacy Act be reviewed annually so as to ensure that the Act be**



kept as up to date as possible, thereby ensuring that it will accurately reflect any changes to the GNWT structure, including changes to boards and agencies.

Response

Agreed. The Department of Justice will review Schedule A of the Access to Information and Protection of Privacy Regulations annually. The Department of Justice is currently revising Schedule A to ensure consistency with GNWT structure and anticipates amending the ATIPP Regulations this spring.

- 3. The AOC recommends that when appointing members to boards, the GNWT should ensure that board members receive ATIPP training and that retraining be provided at least once every two years.**

Response

Agreed. ATIPP training opportunities are routinely available to all public servants and board members. The Department of Justice will remind GNWT boards that board members and employees are encouraged to take advantage of all access and privacy training opportunities.

- 4. The AOC recommends that the GNWT develop draft procedures and protocols to guide board members in maintaining the records they create doing board business.**

Response

Agreed. Records management professionals in the Department of Public Works and Services have developed standards, policies and guidelines for the management of recorded information. PWS will make available to board members materials which will assist with the management of board records.

- 5. The AOC recommends that the GNWT continue to work with the NWT Association of Communities to assess the resources required for municipal governments to be able to comply with access to information and protection of privacy legislation, and to develop an implementation plan.**

Response

In past consultations the GNWT has identified the following implementation issues:

1. How the Act would affect the day-to-day operations of municipal employees, as well as the general administration of the municipality?

2. What are the costs of administering the Act and would additional money be added to their base funding to cover the cost of implementation?
3. What training in ATIPP and Records Management are required by municipal employees? Where is this available and at what costs?

In addition to these existing issues, the NWT Association of Communities indicated that municipalities are facing new pressures. The Federal Gas Tax Program, the Northern Strategy Funding and the NWT New Deal for Community Governments has significantly increased municipal responsibilities, and as a result they do not have the capacity or resources to implement ATIPP legislation at this time. The Department of Justice in cooperation with MACA and the NWT Association of Communities will continue to monitor these pressures and update the AOC annually.

6. **The Standing Committee on Accountability and Oversight recommends that the GNWT come forward with a legislative proposal for legislation that addresses the need for private sector privacy legislation for the health sector.**

Response

All NWT H&SS Authorities are subject to the ATIPP Act. The majority of NWT doctors are contracted employees of the NWT's eight H&SS authorities. Medical records maintained by health centers, medical clinics and hospitals fall under the custody and control of one of these eight authorities and not the physicians.

Pharmacists and dentists do not fall under the NWT's ATIPP Act, but fall under the authority of the Federal private sector privacy legislation, the Personal Information Protection and Electronic Documents Act. (PIPEDA)

AOC has recommended a formal review of the PIPEDA to determine the need for a "made-in-the-north" legislation (see recommendation 7 below) therefore, the Department of Justice will conclude the AOC recommended review before a decision is made on whether or not to advance a legislative proposal.

7. **The AOC recommends that the GNWT begin to formally review the effectiveness of PIPEDA in the NWT, and prepare an initial report on the need for "made-in-the-north" private sector privacy legislation.**

Response

Agreed. The Department of Justice has previously committed to conducting a review of the federal private sector legislation, the Personal Information Protection and Electronic Documents Act in 2006 to determine its effect and whether territorial legislation would be more appropriate.

8. The AOC recommends that the GNWT come forward with a plan, including timelines, to ensure access and privacy issues will be considered in devolution and self-government negotiations.

Response

In negotiations specific to Aboriginal land, resource and self-government agreements, the GNWT ensures that both access to information and protection of privacy matters are addressed in a manner consistent with federal and territorial legislation.

The recently finalized Tlicho Land Claims and Self-government Agreement, the Deline Self-government Agreement-in-Principle (AIP) and the Gwich'in and Inuvialuit Self-government AIP contain these provisions. Similar provisions will be included in future land, resource and self-government agreements.

In the negotiation of the Devolution AIP, access and privacy matters are addressed in the draft AIP and will be considered further when implementation planning begins.