



GNWT RESPONSE TO THE STANDING COMMITTEE ON ACCOUNTABILITY AND OVERSIGHT REPORT 2-15(5) ON THE REVIEW OF THE 2004-2005 ANNUAL REPORT OF THE INFORMATION AND PRIVACY COMMISSIONER

GNWT Response to 2004-2005 Recommendations

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

Under ATIPP, 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, and may include 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 June 1, 2006. It included twelve recommendations.

The following is the Government of the NWT (GNWT) response to the recommendations contained in the *Committee Report 2-15(5) on the Review of the 2004-2005 Annual Report of the Information and Privacy Commissioner*.

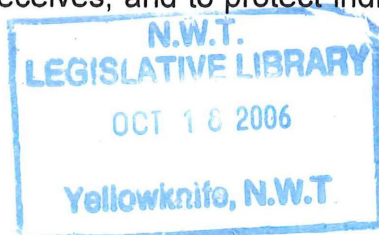
Recommendations

1. **The Standing Committee on Accountability and Oversight recommends that the Premier, Ministers and Financial Management Board make public statements supporting the principles of the *Access to Information and Protection of Privacy Act*, and send clear messages to the public service about the importance of open and transparent government, and the need to grant access to information unless there is a clear and compelling reason not to do so.**

Response

The Minister of Justice has responsibility for the administration of ATIPP. The Minister's commitment to the principles of the Act is evidenced by the numerous amendments to access and privacy legislation, policies, and training, the purpose of which is to enhance the government's commitment to open, accessible and accountable government.

The Minister of Justice will continue to promote access to information that the government creates and receives, and to protect individual privacy rights related to that information.



- 2. The Standing Committee on Accountability and Oversight recommends the GNWT make basic records management and ATIPP training mandatory for all chairs and executive directors of boards and agencies to which the Act applies.**

Response

The GNWT recognizes the benefits received from records management and ATIPP training not only for chairs and executive director of boards and agencies but all employees working in the public sector. However there is no framework in place to mandate training for employees of public bodies.

The Department of Justice in consultation with the Department of Public Works and Services and Human Resources will review the matter of implementing a more proactive approach to ATIPP and records management training for boards and agencies. A report summarizing the discussion will be forwarded to the AOC by December 2006.

- 3. The Standing Committee on Accountability and Oversight recommends the GNWT bring forward a plan, including timelines, for developing and implementation municipal information and privacy legislation that addresses the implementation concerns raised by municipal governments and that will allow for consideration of legislative amendments by the 16th Assembly.**

Response

Agreed. The Government of the NWT recognizes the challenges municipalities would face with implementation of the ATIPP Act. The Department of Municipal and Community Affairs, in consultation with the Department of Justice, will work with the NWT Association of Communities to assess the appropriate legislative approach, and the minimum resource and training initiatives that municipal governments will require to administer access and privacy legislation.

- 4. The Standing Committee on Accountability and Oversight recommends the GNWT review the effectiveness of the *PIPEDA* and the need for territorial legislation on private sector use of personal information and provide a report on its findings before the end of 2006.**

Response

Agreed. In 1999, the Department of Justice, committed to the AOC to conduct a review of the *PIPEDA* in 2006 to determine if territorial private sector legislation would be beneficial. Timing of this review was to follow the Federal Government's review of the *PIPEDA*, initially scheduled for 2006. It is our understanding that the House of Commons Standing Committee on Access to Information, Privacy and Ethics will be

undertaking this review, although no timeframe has yet been set. The Department of Justice will commit to notify the AOC when the Federal review of PIPEDA is scheduled.

- 5. The Standing Committee on Accountability and Oversight recommends the GNWT ensure access and privacy issues are considered in devolution and self-government negotiations, encourage and offer assistance to Aboriginal governments to develop their own regulation where other legislation does not apply, and provide further details to the Committee on its efforts in its formal response to this report.**

Response

Agreed. The GNWT views access to information and privacy as central to the operations of an open government. Finalized Aboriginal self-government agreements will set out the self-government's jurisdiction on the topic of access to information and privacy. Although the territorial ATIPP Act and Regulations will not apply to self-governments, the GNWT is willing to be consulted on the drafting of such legislation by self-government.

- 6. The Standing Committee on Accountability and Oversight recommends the GNWT ensure adequate measures are in place to monitor and enforce contractors' compliance to detect and defend against disclosure of personal information to foreign authorities.**

Response

In 2005, the GNWT amended the ATIPP Act to clarify the definition of employee to include contractors, appointees, volunteers and students. A further amendment states that employees shall not, without authorization, disclose any personal information received by the employee in the performance of services for a public body. The amendments show the government's commitment to addressing concerns relating to the collection, use and disclosure of personal information specifically in regard to contractual relationships with outside service providers.

At this time, the government has no indication that contractors are not complying with their responsibilities under the Act. However, the Department of Justice, in consultation with the Department of Public Works and Services, will look at opportunities for clarifying with contractors their responsibilities under the Act and report back to AOC on these developments by Spring 2007.

- 7. The Standing Committee on Accountability and Oversight recommends the GNWT consider privacy issues and consult with the Information and Privacy Commissioner in order to take advantage of her expertise before moving any more public registries on line.**

Response

Agreed. The GNWT is aware of the concerns expressed relating to personal information available through registry offices, especially information available to the public in electronic format. Public bodies will be directed include the Information and Privacy Commissioner among key stakeholders consulted by public bodies during their development of new programs or legislative initiatives involving the personal information of NWT residents.

- 8. The Standing Committee on Accountability and Oversight recommends the GNWT set standards for submissions to the Information and Privacy Commissioner and provide appropriate leadership and direction to ensure they are understood and followed.**

The Committee further recommends that the GNWT review the need for amendments to the Act to allow the I&PC to reconsider a request for review where a public body changes its arguments after the Commissioner has made her recommendation.

The Committee further recommends the GNWT either bring forward an amendment to clarify the meaning of paragraph 24(1)(f) or provide direction to public bodies on how it is to be interpreted.

Response

Agreed. The Department of Justice is currently updating the *ATIPP Policy and Guidelines Manual*. The Department will expand Section Seven, the Review Process, to clarify the standards for submissions to the Information and Privacy Commissioner. Additionally, the guidelines relating to the interpretation of section 24(1) (f) will also be revised to clarify meaning.

The Manual's guidelines regarding decisions relating to access to information clearly outline the responsibility of public bodies to demonstrate they have properly exercised their duty under the Act. The guidelines direct public bodies to provide applicants with clear explanations of their decisions, the provision(s) of the Act that apply and the reasons for the application in each instance.

The public body responsible for the change in argument (as referenced in the Commission's report) confirmed an error in processing this request took place. When the public body became aware of the error, they immediately notified the applicant and proceeded appropriately. An amendment to the Act to address this issue is not required.

- 9. The Standing Committee on Accountability and Oversight recommends that Schedule A to the Access to Information and Protection of Privacy Regulations be updated at least annually.**

Response

Agreed. The Department of Justice will continue to review Schedule A of ATIPP Regulations annually. Amendments to the ATIPP Regulations are scheduled for 2006. The Department of Justice will also consult with an interdepartmental committee currently considering how best to identify government bodies and institutions for the purposes of different statutes and regulations.

- 10. The Standing Committee on Accountability and Oversight recommends the GNWT continue to keep its online directory of ATIPP coordinators current and that a link to the directory be included on the Legislative Assembly website.**

Response

Agreed. The Department of Justice will continue to routinely update and distribute the Access and Privacy Directory. The 2006 Directory was recently updated to reflect significant changes to the Access and Privacy Coordinator contact information. This updated Directory is posted on the Justice website. The Directory was also made available through the main GNWT website (publications page) earlier this year. This publications link, located on the GNWT homepage, allows the public easy access to the Access and Privacy Directory. Additionally, paper copies of the latest version were sent to all NWT libraries in August 2006.

- 11. The Standing Committee on Accountability and Oversight recommends that GNWT public bodies consult with the Commissioner to identify potential privacy issues in the early stages of projects resulting in the transfer of personal information to electronic record systems.**

Agreed. As noted in Recommendation Seven, public bodies will be directed include the Information and Privacy Commissioner among key stakeholders consulted by public bodies during their development of new programs or legislative initiatives involving the personal information of NWT residents.

- 12. The Standing Committee on Accountability and Oversight recommends the GNWT evaluate its capacity to respond to access to information requests.**

Agreed. The Department of Justice is consulting with GNWT public bodies to evaluate their capacity to respond to access to information requests, and to assess if there is a significant increase in the volume of requests due to residential school inquiries. The Department will report back to the AOC by December 2006.

