

**GOVERNMENT OF THE NWT RESPONSE TO THE
STANDING COMMITTEE ON GOVERNMENT OPERATIONS REPORT 5-(16)(5)
ON THE REVIEW OF THE 2008-2009 ANNUAL REPORT OF THE INFORMATION
AND PRIVACY COMMISSIONER OF THE NORTHWEST TERRITORIES**

GNWT Response to 2008-2009 Recommendations

The NWT *Access to Information and Protection of Privacy Act* (“the Act” or “ATIPP 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 her activities. The Commissioner may include in her report recommendations for amending the legislation to improve the Act’s efficiency and effectiveness.

The Standing Committee on Government Operations (the “Standing Committee”) conducted a review of the Information and Privacy Commissioner’s 2008-2009 annual report. The report summarizing their review was tabled in the Legislative Assembly on November 1, 2010. It included five recommendations.

The following is the Government of the NWT (GNWT) response to the recommendations contained in the “*Committee Report 5-16(5) on the Review of the 2008-2009 Annual Report of the Information and Privacy Commissioner of the Northwest Territories*”.

Standing Committee Recommendations

Recommendation One

The Standing Committee on Government Operations recommends that the Government of the Northwest Territories place a full review of the Access to Information and Protection of Privacy Act on its agenda. (Committee Report 5-16(5); page 2)

GNWT Response

The GNWT supports in principle, the need for effective review mechanisms. The GNWT’s commitment to providing open, accessible and accountable government to the people of the Northwest Territories is evidenced by the numerous amendments to the ATIPP legislation, policies, guidelines and training that have taken place since the Act came into force in 1996.

The current review mechanism to address access and privacy issues identified by the Information and Privacy Commissioner is through the Legislative Assembly by means of

the Standing Committee's review of the Commissioner's annual reports. This review mechanism has been in place since the late 1990s, and has enabled the GNWT to respond to recommendations made by the Legislative Assembly on a wide range of issues identified by the Commissioner, including those focused on information and communication technologies.

Additionally, the executive branch of government has processes and initiatives to improve the GNWT's capacity and performance. The Minister of Justice is responsible for the administration of the *ATIPP Act* and takes a proactive approach in both (1) promoting access to information created and received by the GNWT and (2) protecting individual privacy rights related to that information. The Minister demonstrates this commitment by a number of best practice initiatives, including:

- Creation of an Access and Privacy Administration Committee comprised of access and privacy coordinators from all public bodies, whose mandate is to communicate the importance of access and privacy guidelines, policies and standards to all public bodies;
- Creation of an annual activity report on the administration of the Act which will include information relating to access and privacy activities for GNWT departments;
- Routine updates to the GNWT Access and Privacy Office web information (on the Justice website) which indicates the role of the Office and its services to both the public and the government;
- Development and coordination of access and privacy training specific to coordinators, as well as customized for training for program areas or GNWT boards and agencies;
- Development of an on-line training session, which is anticipated to be launched on the GNWT Access and Privacy Office web pages by spring 2011; and
- GNWT participation at a national subcommittee made up of representatives from all jurisdictions. This committee takes a leadership and coordination role in matters related to access to information and privacy protection across Canada, and develops tools and best practises that governments can adapt to improve their capacity.

The Minister's and Department's activities along with the Legislative Assembly's review mechanisms collectively ensure that the *ATIPP Act*, policies and guidelines remain current and relevant to address the emerging trends and issues identified by the Information and Privacy Commissioner.

Recommendation Two

The Standing Committee on Government Operations recommends that when a reorganization, amalgamation or formation of any public body is planned, matters concerning privacy issues should be considered and addressed at the organizational design stage. (Committee Report 5-16(5); page 2)

GNWT Response

The GNWT recognizes the benefits of a proactive approach in reviewing privacy considerations in all aspects of government work. This includes reviewing privacy implications at the organizational design stage as well as when considering new or modified programs, information systems or administrative practises or legislation.

The GNWT Access and Privacy Office has developed a variety of privacy tools to aid public bodies in establishing practises and procedures that take into consideration the legislative requirements of the *ATIPP Act*. Two tools have been developed to identify privacy issues in the design stage:

1. A Preliminary Project Screening Tool will assess new projects/programs or where changes are being proposed to existing projects involving the use of personal information. This enables public bodies to determine whether a formal Privacy Impact Assessment is required.
2. Two Privacy Impact Assessment Modules were developed in 2008 and recently updated. The Privacy Risk Assessment Module is designed as a project scoping tool to determine to what extent the project under consideration is "privacy intrusive", and what level of effort is required in the privacy impact assessment to ensure that identified risks are appropriately mitigated. The Privacy Analysis Module was designed to assist employees in conducting a more in-depth privacy analysis to ensure public bodies are in compliance with government policy and core privacy principles for projects involving the use of personal information.

The GNWT Access and Privacy Office will continue to develop tools and guidelines to aid public bodies to identify privacy considerations at the earliest possible stage.

Recommendation Three

The Standing Committee on Government Operations recommends that the Government of the Northwest Territories enact legislation that would make municipalities subject to access and privacy legislation, would define accountability levels, and would create practical rules regarding the gathering, use and disclosure of personal information about individuals by municipalities.
(Committee Report 5-16(5); page 2)

GNWT Response

The Department of Municipal and Community Affairs (MACA) agrees and supports the recommendation in principle. Implementation issues identified by community governments as stated in previous GNWT responses to Standing Committees relating to capacity, costs and training continue to be a factor in the delay to moving forward with the recommendation to enact legislation that would make municipalities subject to access and privacy legislation.

In the GNWT's response to the 2006-2007 and 2007-2008 Standing Committee report, MACA anticipated advancing this work in the next two to three business cycles when

resources become available, and noted it would work with its partners to identify options and develop a work plan. However, no work was advanced on this initiative given other workload pressures of the Department and of community governments.

MACA recognizes that this is an outstanding recommendation and acknowledges the importance of the issue identified by the Information and Privacy Commissioner. The Department will continue to monitor the capacity of community governments, and examine the broad range of options that may be available, and could consider moving forward on the recommendation during the 17th Legislative Assembly if sufficient resources are available.

Recommendation Four

The Standing Committee on Government Operations recommends that the Government of the Northwest Territories ensure that:

- ***The same good records management practices that are applied to paper records are applied to e-mail communications; and***
- ***Employees receive formal training and informal coaching on managing electronic records.*** (Committee Report 5-16(5); page 3)

GNWT Response

The GNWT agrees and has policies, guidelines and training specific to the management of electronic information.

The *Management of Electronic Information Policy* provides overarching direction on information management in the electronic environment, including email. It assigns responsibility for management to the department that creates or receives the information.

The *Email Use Policy* provides specific guidance on the use of GNWT email, explains the impact it has on shared technology resources, and provides clarity on related privacy, security and records management matters.

The *Electronic Information Security Policy* provides direction on implementation of information security standards, guidelines and procedures. It creates baseline requirements and responsibilities for the secure use of electronic information, information systems and technologies. As noted in the GNWT response to the 2006-2007 and 2007-2008 Standing Committee report, this policy is scheduled to be updated to address emerging technologies and standards. The Department of Finance (Chief Information Office) indicates the review of this policy and the *Email Use Policy* will continue as resources become available.

In conjunction with the above policies, guidelines were developed for employees on managing email. The *Guidelines for Managing Electronic Mail Messages* gives direction

on effective and secure management of email. Additionally, the Department of Public Works (PWS Records Management) has developed a Managing Electronic Records Course for GNWT employees which had been routinely running since December 2004.

The GNWT is also developing a management and employee guide to privacy, access, security, retention, disposal and overall management of information in government and public bodies in the NWT. The Departments of Justice (Access and Privacy Office), Finance (Chief Information Office), PWS (Records Management) and Human Resources are collaborating on this project. This guide is anticipated to be completed in spring 2011.

Recommendation Five

The Standing Committee on Government Operations recommends that the GNWT give consideration:

- ***To educating elementary and secondary students about the risks associated with online activities; and***
- ***To providing specific information in school curricula about these risks and the precautions that should be taken in order for youth to reduce them.*** (Committee Report 5-16(5); page 3)

GNWT Response

The GNWT recognizes the importance of educating students and teachers about both the risks and the benefits that can be gained through responsible online activities.

The Department of Education, Culture and Employment (ECE) has a variety of resources currently available, such as a series of web awareness workshops for teachers and online tutorials, regarding safe online practices for students. ECE is developing a curriculum for elementary and secondary students to address the use of information and communication technology. The overall goal of this curriculum is to educate students to be critical and creative in their use of information and communication technologies, while also protecting themselves from the risks associated with online activities. The curriculum is currently in its pilot stage and is anticipated to be formally implemented in 2012.

Notwithstanding these activities, it is important to recognize that this recommendation reflects a broader public interest regarding safe online activities that is not regulated by the *ATIPP Act*.