



**Standing Committee on
Oversight of Government Operations and Public Accounts**

**Report on the Review of the
Annual Report of the Information and Privacy
Commissioner of Nunavut**

Second Session
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Introduction

The Information and Privacy Commissioner is an independent officer of the Legislative Assembly who is required under section 68 of the *Access to Information and Protection of Privacy Act (ATIPP Act)* to prepare and submit an annual report on her activities to the Legislative Assembly.

The *ATIPP Act* provides for the Commissioner of Nunavut to appoint, on the recommendation of the Legislative Assembly, the Information and Privacy Commissioner for a five-year term of office.

The appointment of Nunavut's first Information and Privacy Commissioner, Elaine Keenan Bengts, was recommended by way of motion in the Legislative Assembly on November 2, 1999. On November 25, 2004, her reappointment was recommended by way of motion to a second five-year term of office.

The Legislative Assembly of the Northwest Territories enacted the *ATIPP Act* in 1996. As the Information and Privacy Commissioner has noted:

“The *Access to Information and Protection of Privacy Act* was created to promote, uphold and protect access to the information that government creates and receives and to protect the privacy rights of individuals.”

The *ATIPP Act* and regulations were inherited from the NWT on April 1, 1999. While the Act has been amended seven times since the creation of the new territory, there have been no fundamental changes to it over the last 10 years. The minor changes that have been made to the Act consist of amendments to address conflicts between the *ATIPP Act* and other territorial Acts. In 2007, there were consequential amendments to 15 other Acts to prevent the *ATIPP Act* from prevailing over these Statutes.

For example, the *Young Offenders Act* was amended by adding the following text:

“Confidentiality

- 74.1 No person shall use, disclose or transfer a record kept pursuant to section 63, or any personal information obtained under this Act or in the course of his or her employment, contrary to
- (a) this Act;
 - (b) the policies of the Government of Nunavut; or

(c) the Access to Information and
Protection of Privacy Act

Paramountcy

74.2 The provisions of this Act respecting the privacy, confidentiality, collection, use, disclosure, transfer and destruction of records and other personal information prevail despite any conflict or inconsistency with the *Access to Information and Protection of Privacy Act*.”

As another example, the *Insurance Act* was amended by adding “Despite the *Access to Information and Protection of Privacy Act*,” so that section 21.1(3) now reads:

“Despite the *Access to Information and Protection of Privacy Act*, the Superintendent may make information about an insured or about any party to an application referred to in subparagraph (a)(ii) that is collected under subsection (1) available, either directly or through an agency designated by the Superintendent and on terms and conditions satisfactory to the Superintendent, to

- (a) an insurer that
 - (i) undertakes or agrees or offers to undertake contracts of automobile insurance, and
 - (ii) has a written application signed by the insured;
- (b) auditors of the statistical agency referred to in subsection (1); or
- (c) the insured.”

The thirteen other Acts that were amended are: *Statistics Act*, *Archives Act*, *Disease Registries Act*, *Education Act*, *Evidence Act*, *Financial Administration Act*, *Human Rights Act*, *Labour Standards Act*, *Medical Care Act*, *Payroll Tax Act*, *Qulliq Energy Corporation Act*, *Vital Statistics Act*, and the *Wildlife Act*.

The changes that have been made to the regulations have been house-keeping in nature. The list of “Public Bodies” has been amended to reflect the creation of new public bodies of Nunavut.

As the Information and Privacy Commissioner has noted, her position is mandated to:

“...conduct reviews of decisions of public bodies and to make recommendations to the Minister involved (...) the Commissioner has the obligation to promote the principles of the Act through

public education. She is also mandated to provide the government with comments and suggestions with respect to legislative and other government initiatives which affect access to information or the distribution of private personal information in the possession of a government agency.”

Standing Committee hearings on such annual reports as those presented by the Information and Privacy Commissioner, the Languages Commissioner and the Auditor General provide an opportunity for the issues raised in each report to be discussed in a transparent manner. Government accountability is fostered through the requirement in the *Rules of the Legislative Assembly* that the government table a comprehensive response to the Standing Committee’s report and recommendations within 120 days of its presentation to the House.

The Information and Privacy Commissioner of Nunavut also serves as the Information and Privacy Commissioner of the Northwest Territories. The Information and Privacy Commissioner’s most recent annual reports to the NWT and Nunavut legislatures raise similar themes and recommendations.

Reports and Hearings

The last Standing Committee report on the review of an annual report of the Information and Privacy Commissioner was presented in June 2003 in relation to the Information and Privacy Commissioner’s 2001-2002 annual report.

Since 2005, the Government has been tabling its own annual reports on the administration of the *Access to Information and Protection of Privacy Act*. The latest report on the administration of the Act was tabled in the Legislative Assembly on June 11, 2009.

On September 15, 2008, the Information and Privacy Commissioner’s 2007-2008 annual report was tabled in the Legislative Assembly and the government tabled its response to her report on January 26, 2009. The Information and Privacy Commissioner’s 2008-2009 annual report was tabled in the Legislative Assembly on June 8, 2009.

The Information and Privacy Commissioner appeared before the Standing Committee on Oversight of Government Operations and Public Accounts to present her two most recent annual reports on October 1, 2009. This appearance was held in the Chamber of the Legislative Assembly and

was open to the public and media to observe. Transcripts from the appearance have been posted on the Legislative Assembly's website. Prior to this appearance, the most recent committee hearing on an annual report of the Information and Privacy Commissioner took place in October 2006. That hearing covered her 2004-2005 annual report.

Acknowledgements

Members of the Standing Committee on Oversight of Government Operations and Public Accounts would like to thank Ms. Elaine Keenan Bengts for appearing before the Committee to present and discuss her most recent annual reports. The Standing Committee was pleased to have had the opportunity to engage in a productive dialogue with the Information and Privacy Commissioner.

General Observations

Corporate Culture

As in her previous years' annual reports, the Information and Privacy Commissioner emphasized the importance of establishing a corporate culture in government which encourages both access to government information and protection of personal information. During her opening comments to the Standing Committee, she stated,

“It is my pleasant observation that public bodies in Nunavut do appear to have a positive corporate culture.”

Government Contracting

The issue of transparency in relation to the government's contracting practices has been raised by committees of the Legislative Assembly for a number of years. During the Information and Privacy Commissioner's October 1, 2009, appearance before the Standing Committee, the issue of disclosure of information concerning government contracts was raised.

The Information and Privacy Commissioner stated that the release of information about government contracts is an ongoing issue across Canada. She stated that “most southern jurisdictions publicly post the contracts they reach with outside agencies.” She also stated that “some jurisdictions have taken to posting much of what is in a contract and protecting only certain parts of it.” She acknowledged the difficulty of achieving a “balance between the right of the public to know and the rights

of businesses to carry on business.” The Information and Privacy Commissioner also affirmed that the process by which contracts are awarded should be made public.

The Standing Committee notes that the government has, in recent years, commenced the practice of tabling annual reports on its contracting, procurement and leasing activities. The Standing Committee recommends that this practice be extended to the government’s Crown corporations and agencies, including the:

- Nunavut Housing Corporation;
- Nunavut Business Credit Corporation;
- Nunavut Development Corporation;
- Qulliq Energy Corporation; and
- Nunavut Arctic College.

Endorsement of the Act by Members of the Legislative Assembly

In her 2007-2008 annual report, the Information and Privacy Commissioner stated that she would “encourage all Members of the new Assembly to publicly and clearly endorse the purposes of the Act and to provide continued leadership in ensuring open government.”

During her appearance before the Standing Committee, the Information and Privacy Commissioner was asked for further clarification on this statement. She encouraged Members to use the Act by making their own requests for access to information. She also stated that, “Openness in this jurisdiction is one of the main concepts upon which this jurisdiction was established. That’s why, in this jurisdiction, this Act is even more important than anywhere else.” She also noted that if MLAs were to make significant use of the Act, they would be “making the public bodies and the departments sit up and take notice, follow through, and do what they’re supposed to do under the Act.”

Members’ Use of Social Networking Sites

The extent to which social networking sites such as Facebook are in compliance with federal privacy law has attracted national attention in recent months. In July of 2009, the Office of the Privacy Commissioner of Canada issued the results of “an investigation into the popular social networking site’s privacy policies and practices.” The Standing Committee recognizes that these sites are becoming increasingly popular in the North.

This issue was also raised during the Standing Committee's hearings. The Information and Privacy Commissioner offered a number of cautionary comments with respect to this issue and stressed the importance of ensuring that any site established by a Member of the Legislative Assembly avoid including personal information of constituents.

Open and Closed Adoptions

During the Information and Privacy Commissioner's appearance, the issue of adoption was raised. The Information and Privacy Commissioner commented that:

"In the last year or so, the Ontario legislature has struggled with this very issue over whether or not adoption information should be open. They passed legislation which opened up all records past and for the future, and there was quite a backlash from the public over that. In the end, they took a step back and they passed their legislation for open adoptions going forward, but wouldn't open the ones that had already been completed. The reasoning for that is that parents who put their children up for adoption on the understanding that they wouldn't be contacted in the future were really upset about the fact that now their names and all of the information would be open."

The Standing Committee has noted that on November 20, 2009, the Yukon Government announced that:

"The new *Child and Family Services Act* will come into effect on April 30, 2010 and will include significant changes in how the Department of Health and Social Services deals with adoption disclosures ... The new legislation allows for more openness around adoption-related records, making it easier for birth parents and people who were adopted to find each other. However, in situations where they wish not be contacted, birth parents and children involved in previous adoptions can maintain confidentiality by filing a no-contact declaration ... People wishing to file a disclosure veto or no-contact declaration have until April 29, 2010 to do so. After that, adopted people aged 19 or over and birth parents will be able to access their individual information."

On October 26, 2009, the Full Caucus of the Legislative Assembly announced that a new *Child and Family Services Act* will be introduced during the 3rd Legislative Assembly of Nunavut. The Standing Committee is of the view that this issue merits consideration during this review to

ensure that Nunavut's practices in this area reflect and respect Inuit societal values.

Recommendations

The Information and Privacy Commissioner's most recent annual reports to the Legislative Assembly have provided a number of formal recommendations. As noted earlier, the Government of Nunavut has, in recent years, presented formal responses to the Information and Privacy Commissioner's recommendations. These are summarized at the end of this report.

The Standing Committee is pleased to take this opportunity to present its own recommendations to the government concerning the issues raised by the Information and Privacy Commissioner. The Committee is also presenting recommendations on a number of matters arising from its hearings.

Issue: Government Contracting Practices

As noted earlier in this report, the issue of government contracting was raised during the Information and Privacy Commissioner's appearance.

Standing Committee Recommendation #1:

The Standing Committee recommends that the Government of Nunavut table annual contracting, procurement and leasing reports for all of its Crown corporations and agencies, including:

- Nunavut Business Credit Corporation;
- Nunavut Development Corporation;
- Nunavut Housing Corporation;
- Qulliq Energy Corporation; and
- Nunavut Arctic College.

**Issue: Establishment of a Formal Information Disclosure Policy
Concerning the H1N1 Virus**

During the Information and Privacy Commissioner's appearance before the Standing Committee, extensive discussion took place concerning the issue of the government's practices in relation to the disclosure of information concerning the H1N1 virus.

Members noted that the Government of Nunavut has been releasing limited information concerning the location of where H1N1 cases have been identified. Rather than identifying the specific communities in which there are cases of H1N1, the Department of Health and Social Services has been releasing information on a regional basis.

However, the Standing Committee also notes that in a news release dated November 18, 2009, the GN released community-specific information concerning the number of H1N1 vaccinations that had been administered across the territory. This approach strikes the Standing Committee as being inconsistent.

The Standing Committee recognizes that great care must be taken in establishing the appropriate balance between the public's right to know and individual privacy rights. In her response to questions on this issue, the Information and Privacy Commissioner noted that:

"When we're talking about health information in particular, health information, of course, is some of the most sensitive personal information we will ever have about ourselves. I am a little surprised to hear that, frankly, because the name of a community is not personal information, the name of a community is general information.

That having been said, I know that there are a number of very small communities in Nunavut. I suppose there is the question about whether the disclosure of the fact that a particular community has been hit hard by the H1N1 virus will identify individuals who have, in fact, been hit by the H1N1 virus. It's a sensitive area. I don't see any reason why it hasn't come to me as a question. Off the top of my head, I can't think of any reason why the name of a community that has been hit by a communicable health problem such as H1N1 shouldn't be named. I don't know what the policies are of the Department of Health or why they have taken that position. All I can tell you is that from my perspective as Information and Privacy

Commissioner, there is no reason not to disclose the names of those communities.”

The Information and Privacy Commissioner also commented that:

“In my opinion, as Information and Privacy Commissioner, the disclosure of the city, Yellowknife, that there is an H1N1 case in Yellowknife doesn’t identify me as the person who has H1N1. On the other hand, in a small community with 100, or 200, or 250 people is identified as a community in which there is an H1N1 case, it is far more likely that the person who has that illness is going to be identifiable. It is a fine line. There needs to be some common sense applied to it, but I understand, frankly, both sides of the equation here and I understand the sensitivity of the issue. A lot of what I do is applying common sense to situations. So on this issue, the bottom line is what you want to avoid doing is identifying individuals who have the H1N1 virus, bottom line.”

Standing Committee Recommendation #2:

The Standing Committee recommends that the Government of Nunavut reviews its practices in the area of disclosure of information concerning the H1N1 virus. The Standing Committee further recommends that the government’s next annual report on the administration of the Act include an update on its activities in this area.

Issue: Review of Legislation in Relation to Adoption

As noted earlier in this report, the issue of open and closed adoptions was raised during the Standing Committee's hearings.

On October 26, 2009, the Full Caucus of the Legislative Assembly announced that a new *Child and Family Services Act* will be introduced during the 3rd Legislative Assembly of Nunavut. The Standing Committee is of the view that this issue merits consideration during the development of new legislation to ensure that Nunavut's practices in this area reflect and respect Inuit societal values.

Standing Committee Recommendation #3:

The Standing Committee recommends that the Government of Nunavut's upcoming development of a new *Child and Family Services Act* takes into consideration the issue of adoption.

Issue: Application of Access to Information and Protection of Privacy Legislation to Municipalities

In her 2007-2008 annual report to the Legislative Assembly, the Information and Privacy Commissioner recommended that “steps be taken to add municipalities as public bodies under the existing [*Access to Information and Protection of Privacy Act*], or that new legislation be developed to apply to municipal governments in Nunavut”.

GN response to the 2007-2008 recommendation:

“The GN agrees that privacy and access legislation is needed for municipalities but is reluctant when municipalities have neither the financial resources nor the staff capacity. The Federal Commissioner will accept privacy complaints regarding municipalities.”

During her October 1, 2009, appearance before the Standing Committee, the Information and Privacy Commissioner affirmed her view that the Government of Nunavut should consider amending the *Access to Information and Protection of Privacy Act* to include municipalities. She stated that:

“Municipal governments have to be accountable just the same as territorial and federal governments. Privacy is precious. Without any rules or guidelines on how a municipality views personal information that they collect to do their business, there is no guarantee that personal information will be protected in the hands of municipalities. There are benefits. As I said, I think that you would find that some municipalities at least would welcome some guidelines as to what they can and can’t disclose and in what circumstances. Legislation would provide those guidelines. Thank you.”

The issue of the application to the federal *Personal Information Protection and Electronic Documents Act* (PIPEDA) to municipalities in the territories was also addressed during the Standing Committee’s hearings. The Information and Privacy Commissioner stated that:

“The federal Privacy Commissioner’s office has taken the position that all commercial enterprises in the three territories come under PIPEDA ... PIPEDA applies only to commercial undertakings. To a large extent, I think that it would be a push to suggest that municipalities were commercial undertakings.”

The Information and Privacy Commissioner also noted that:

“Regardless of whether or not PIPEDA applies to municipalities, and there is some debate as to whether or not it does, that doesn’t help with the access to information side of things. Governments are governments and unless we have access to information and protection of privacy, there’s a gap. I have long advocated for inclusion of municipalities.”

This issue engendered considerable discussion during the Standing Committee’s hearings. One example that was raised concerned the voters list that the City of Iqaluit had recently posted on the internet. The list contained voters’ addresses and house numbers.

The Information and Privacy Commissioner stated that while voters lists are “public documents for very good policy reasons,” she also indicated that, “I don’t think the public needs to know everybody’s postal address, street address, or any other information. I think the name would be more than sufficient if you are posting it online.”

While the Standing Committee supports the principle that all levels of government should respect the importance of ensuring access to information while safeguarding personal privacy of residents, it also recognizes the challenges that face Nunavut’s small communities with respect to the issue of their administrative capacity to manage a complex access to information and protection of privacy regime. The Standing Committee recognizes that immediately designating municipalities as public bodies under the territorial Act is not necessarily a feasible solution in the short term.

The Information and Privacy Commissioner stated that:

“Voluntary guidelines perhaps could be established for all of the municipalities to kind of give them a taste of what might be coming. I also quite frankly like your suggestion of one central office which could handle perhaps all access and privacy issues for all of the municipalities ... it’s a way to get it done without putting an extra burden on the municipalities.”

Standing Committee Recommendation #4:

The Standing Committee recommends that the Government of Nunavut, in cooperation with the Nunavut Association of Municipalities and the Office of the Information and Privacy Commissioner, review the issue of access to information and protection of privacy at the municipal level. This review should give consideration to the appropriate mechanisms to achieve progress in this area, including those that were discussed during the Standing Committee's hearings. The Standing Committee further recommends that the government's next annual report on the administration of the Act include an update on its activities in this area.

**Issue: Review of the Role of the Information and Privacy
Commissioner of Nunavut**

In her 2007-2008 annual report to the Legislative Assembly, the Information and Privacy Commissioner recommended that:

“It may be that it is time to consider a different approach to the office, perhaps by making it a half-time or even a full-time position so as to ensure that the Information and Privacy Commissioner has the dedicated time to commit to [increasingly technical aspects of the position]. Alternatively, it may be that the Information and Privacy Commissioner needs to be given a budget to allow her to hire contract staff to carry out some of the functions of the office, to assist in investigations or with technical issues or with a public education campaign.”

GN response to the 2007-2008 recommendation:

“The Information and Privacy Commissioner is an independent oversight body reporting to the Legislative Assembly. Therefore, the GN is unable to respond.”

During the Standing Committee’s hearings, the idea of combining the Information and Privacy Commissioner’s functions with those of an ombudsperson and an office to provide protection for whistleblowers was discussed. The Information and Privacy Commissioner commented that, “it’s not a bad idea to explore an ombudsman’s office combined with the Information and Privacy Commissioner and a whistleblower.”

On October 26, 2009, the Full Caucus of the Legislative Assembly announced that “an independent position to represent and articulate the needs of children and youth will also be established during the life of the Legislative Assembly.” The Standing Committee is aware that the Government of Nunavut has previously committed to considering whistleblower protection as part of the legislative review of the *Public Service Act*.

The 2009-2010 business plan of the Office of the Legislative Assembly indicates that one of its goals for the 2009-2010 fiscal year is to “ensure that the position of Information and Privacy Commissioner of Nunavut is filled following the expiration of the present incumbent’s appointment in November 2009.”

Under subsection 61(3) of the *Access to Information and Protection of Privacy Act*, “A person holding office as Information and Privacy Commissioner continues to hold office after the expiry of his or her term of office until he or she is reappointed, a successor is appointed or a period of six months has expired, whichever first occurs.”

Standing Committee Recommendation #5:

The Standing Committee recognizes that any fundamental changes to the role of the Information and Privacy Commissioner, including the creation of new statutory positions such as an ombudsman or a position to provide assistance and protection to whistleblowers, would require not only significant amendments to the *Access to Information and Protection of Privacy Act*, but would also require the introduction of new legislation. The Standing Committee recommends that this issue be considered in the context of the Legislative Assembly’s upcoming recruitment exercise to select the next Information and Privacy Commissioner of Nunavut. The Standing Committee further recommends that the government’s next annual report on the administration of the Act include an update on its progress towards establishing whistleblower protection.

Issue: Amendments to the *Access to Information and Protection of Privacy Act* to Include Privacy Reviews

In her 2008-2009 annual report, the Information and Privacy Commissioner recommended that:

“Amendments be made to the Act to allow for a review process where there is a concern that someone’s personal information has been improperly collected, used or disclosed.”

With the exception of the 2004-2005 annual report, this recommendation has been included in every one of her annual reports since 1999-2000. The government’s response to this recommendation has been substantially the same in every year.

The Information and Privacy Commissioner has conducted reviews and recommendations on privacy complaints. However, as she stated in her most recent annual report, there is “no obligation imposed on public bodies to co-operate with those investigations or to take any steps to address recommendations made.” In her opening comments to the Standing Committee, she reiterated the importance of amending the *ATIPP Act* to “include some formal mechanism to deal with privacy complaints” and stated that:

“The one thing that this Act really is missing is a way to enforce those privacy provisions in the Act and a way to make things better when there are privacy breaches. Right, now, the only way to address that is to prosecute somebody and that’s not the answer. The answer is to change things so it doesn’t happen again.”

GN response to the 2007-2008 recommendation:

“The GN will consider providing for a review of breach of privacy complaints in any future amendments to the Act.”

Standing Committee Recommendation #6

The Standing Committee supports the Information and Privacy Commissioner’s position and recommends that the Government of Nunavut consider it to be a priority amendment as part of its next legislative review of the *ATIPP Act*. The Standing Committee further recommends that the GN consult with the Office of the Information and Privacy Commissioner in the development of these amendments.

Issue: Electronic Records Management, E-mail and Mobile Devices

In her 2007-2008 annual report, the Information and Privacy Commissioner stated that:

“It is vital that all government employees working with electronic medium and using the internet to communicate and exchange information completely and fully understand the appropriate rules for storing and recording such transactions and that the records management system that relates to electronic records are clear and strictly enforced.”

In her 2007-2008 annual report, the Information and Privacy Commissioner stated that:

“It is important that there be written government policies regarding electronic medium and that these policies are reviewed regularly to ensure that they keep pace with changing technologies. To the extent that these policies already exist, they should be made part of all orientation programs and should be repeated and reinforced constantly and strenuously enforced with serious consequences attached to a failure to comply with the policies.”

In her 2008-2009 annual report, the Information and Privacy Commissioner stated that:

“There seems to be no real government-wide system for filing and storing e-mail communications ... there needs to be an effort to devise a system which is to be used by all government employees with consequences for improper storage.”

GN response to the 2007-2008 recommendation:

“The GN has a policy regarding emails and the use and retention of emails ... this policy prohibits anyone from deleting or otherwise denying access to Government records including e-mail messages and requires all employees to apply to electronic records the same Records Management Policies that apply to all GN Records ... The GN recognizes that there is still more training needed in the area of electronic files and their management and strives to improve and work on proper procedures on an ongoing basis.”

A number of the government's policies in this area are available on the GN's website.

In her 2008-2009 annual report, the Information and Privacy Commissioner recommended that:

“Employees be reminded on an ongoing basis that, notwithstanding the fact that the Collective Bargaining Agreement allows personal use of government e-mail systems by employees, those communications are subject to the Access to Information and Protecting of Privacy Act and may be the subject of an access request. They should be reminded often that caution should, therefore, be exercised when taking advantage of their government e-mail for personal communications”

The importance of employee awareness was also noted in her opening comments to the Standing Committee, during which she provided the following advice: “use government email for personal communications at your own peril and know that it is not private and may be subject to public scrutiny.”

This recommendation first appeared in the Information and Privacy Commissioner’s 2006-2007 annual report.

GN response to the 2007-2008 recommendation:

“The GN has recently developed a policy (Acceptable Use of Handheld Wireless Devices - May 14, 2007) with respect to records produced and stored on personal computers and other personal or GN-issued devices not always connected to the main network such as cell phones, laptops, PDAs and other hybrid devices such as Blackberry.”

Standing Committee Recommendation #7:

The Standing Committee recognizes that the pace of technological change is such that governments must make ongoing efforts to ensure that their policies, practices and procedures remain current. The Standing Committee recommends that the government review its policies, practices and procedures in this area on an annual basis.

**Issue: Information and Privacy Commissioner's Discretion to
Extend the Time for Requesting a Review**

In her 2008-2009 annual report, the Information and Privacy Commissioner recommended that:

"The Information and Privacy Commissioner be given discretion to extend the time for requesting a review in appropriate circumstances, except where the issue involves a third party objection to the disclosure of information."

This recommendation also appeared in the Information and Privacy Commissioner's 2007-2008 annual report.

GN response to the 2007-2008 recommendation:

"The GN will consider changes to the discretionary powers of the Commissioner in regards to this situation in any future amendments to the Act."

Standing Committee Recommendation #8:

The Committee supports the Information and Privacy Commissioner's position and recommends that the Government of Nunavut consider it to be a priority amendment as part of its next legislative review of the *ATIPP Act*. The Standing Committee further recommends that the GN consult with the Office of the Information and Privacy Commissioner in the development of these amendments.

Issue: Development of Health Sector Privacy Legislation

In her 2008-2009 annual report, the Information and Privacy Commissioner strongly recommended that:

“Steps be taken to begin the process of developing health sector privacy legislation as soon as possible.”

This recommendation first appeared as a specific recommendation in the Information and Privacy Commissioner’s 2007-2008 annual report. However, it was also referred to as far back as her 2000-2001 annual report in which she stated “it is important to have good legislation in place that will provide strict guidelines for the whole of the health industry when dealing with personal health information.”

In her most recent annual report, she also states that “every jurisdiction in Canada, other than Nunavut, has now either passed health specific privacy legislation to address the very real privacy concerns raised by electronic records.”

GN response to the 2007-2008 recommendation:

“The GN is currently not in a position to develop new privacy legislation ... Through its active participation on the Pan-Canadian Privacy Forum on Electronic Health Record (EHR) Information Governance, the GN is gaining significant insight and information on the legislative requirements and complexities associated with health information and EHRs. This will facilitate the development of health specific legislation in the future. The GN is currently working on its integrated EHR system ... A privacy work plan is currently being finalized to ensure that the EHR system is compliant with legislative requirements and privacy best practices.”

Standing Committee Recommendation #9:

The Standing Committee recognizes the importance of achieving progress in this area and recommends that the Government of Nunavut continue its efforts to move forward to introducing legislation. The Standing Committee further recommends that the government’s next annual report on the administration of the Act include an update on its activities in this area.

**Issue: Protection of Children from On-Line Risks and
Development of Curriculum Materials**

In her 2007-2008 annual report, the Information and Privacy Commissioner recommended that:

“Consideration be given to including in school curriculums specific information about electronic medium and strategies for protecting children from on-line risk, beginning at the elementary school level.”

In her 2008-2009 annual report, the Information and Privacy Commissioner recommended that:

“Steps be taken to include comprehensive instruction on new technologies, including instruction with respect to safety on the internet.”

GN response to the 2007-2008 recommendation:

“The current junior high school curriculum includes coverage of risk factors involved in aspects of media communications. In addition, students are required to sign an agreement that they will only use internet and other electronic systems for positive learning purposes. ... to strengthen the approach to this potentially serious issue, as the Department of Education develops a new Information Technology curriculum for Nunavut schools, this topic will be included at all grade levels.”

During her appearance before the Standing Committee, the Information and Privacy Commissioner informed Members that her attempts to have guest speakers visit Nunavut to speak about access to information and privacy issues “fell through” in the 2008-2009 fiscal year. She informed the Committee that she will continue to try and arrange events of this nature.

The Information and Privacy Commissioner also stated that she hopes and intends to arrange for Professor Val Steeves from the University of Ottawa to travel to the territory to speak to high school students in Nunavut.

She also stated that there is an ongoing collective effort among “Information and Privacy Commissioners from across the country, on a number of initiatives aimed at children, teenage children in particular.” She also stated that she is “working on a couple of projects to create brochures and such for high school students.”

In her 2008-2009 annual report, the Information and Privacy Commissioner stated that “times are changing and school curriculums should be changing as well.” During her appearance before the Standing Committee, she also affirmed that “it’s not just kids whose view of privacy is changing but the world view of what is appropriate, what should be private, and what isn’t private is changing.”

Standing Committee Recommendation #10:

The Standing Committee recognizes that children are using the internet and related technologies at increasingly young ages. The Standing Committee recommends that the Department of Education continue its efforts to include relevant curriculum in elementary schools. The Standing Committee further recommends that the government’s annual report on the administration of the Act include an update on its activities in this area.

**Tabling Dates of Annual Reports of the Information and Privacy
 Commissioner, GN Responses and GN Annual Reports**

	Information and Privacy Commissioner's Annual Reports	GN responses to Standing Committee Reviews of the IPC's Annual Reports	GN responses to the IPC's Annual Reports	GN Annual Reports on the Administration of the ATIPP Act
1999-2000	October 27, 2000	December 4, 2001	-	-
2000-2001	November 14, 2001	March 4, 2003	-	-
2001-2002	November 27, 2002	December 2, 2003	-	-
2002-2003	December 4, 2003	(June 2004)*	-	-
2003-2004	November 25, 2004	-	-	(May 31, 2004)*
2004-2005	November 15, 2005	-	March 1, 2006	November 18, 2005
2005-2006	November 30, 2006	-	March 13, 2007	November 22, 2006
2006-2007	October 26, 2007	-	February 19, 2008	June 1, 2007
2007-2008	September 15, 2008	-	January 26, 2009	May 26, 2008
2008-2009	June 8, 2009	-	Not yet tabled	June 11, 2009

* Not tabled, but available

Statistics on Requests and Review Recommendations reported by the Information and Privacy Commissioner

	2004-2005 Annual Report	2005-2006 Annual Report	2006-2007 Annual Report	2007-2008 Annual Report	2008-2009 Annual Report
Review Recommendations (made under Section 35 of the ATIPP Act)	5	6	2	16*	4****
Requests for Review regarding Access to Information	10	7	2	17	3
Requests for Review regarding Privacy	1	1	1	1	1
Requests for Review regarding Fees	-	-	-	2	-
Requests for comment (on the scope of the ATIPP Act, government initiatives related to the ATIPP Act, or legislation)	6	4	-	2	1
Requests to correct personal information	-	-	-	1	-
Requests to lay a charge	-	-	-	7**	-
“Other” Requests	-	-	3	5	-
Total requests	17	12	6	35***	5

* 9 of which dealt with issues of time extensions and deadlines

** All from the same applicant. No charges were laid. The Information and Privacy Commissioner stated in her 2007-2008 Annual Report that she “declined to lay any charges or to consider any further such requests from the Applicant”.

*** The 2008-2009 GN Annual Report on the Administration of the ATIPP Act states that in 2007-2008, a single requester made 22 requests to the Commissioner for review.

**** During her appearance before the Standing Committee on October 1, 2009, the Information and Privacy Commissioner corrected this figure to include a fifth recommendation. She stated that a synopsis of this recommendation will be included in the next annual report.

Statistics reported by the Government of Nunavut's Annual Reports on the Administration of the ATIPP Act

	2004-2005 Annual Report	2005-2006 Annual Report	2006-2007 Annual Report	2007-2008 Annual Report	2008-2009 Annual Report
Access requests (requests where the applicant is looking for information)	30	28	33	39	23
Personal requests (such as requests for personal information)	62*	23*	37*	65 (incl. 3 corrections and 5 privacy breach requests)	27 (incl. 1privacy breach request)
Total of access and personal requests***	92 (generated by 45 applicants)	51 (generated by 37 applicants)	70 (generated by 44 applicants)	104 (generated by 46 applicants)	50 **
Request for release from other government (Requests from other governments refer to '3 rd party reviews'. When a government gets a request pertaining to intergovernmental relations with the GN, they first check with the GN department(s) in question to ensure that there are no objections to releasing the information in question.)	5	9	7	9	20
Total of all formal requests	97	60	77	113	70 (generated by 56 applicants)

* The 2004-2005, 2005-2006 and 2007-2008 reports do not provide statistics on privacy breaches.

** Starting in the 2008-2009 report, statistics on the number of applicants generating requests were reported differently.

Information and Privacy Commissioner's Recommendations	Information and Privacy Commissioner's Annual Report				Most recent GN Response to the Information and Privacy Commissioner's Recommendation
	2005-2006	2006-2007	2007-2008	2008-2009	
<p>Contracting out of information management The GN should take a look at its contractual relationships with outside service providers, particularly in those areas which include the use of financial or medical information of individual residents of Nunavut. Contractors should be subject to access requests and responsible for the privacy of individuals whose personal information they acquire.</p>	√				There is a growing awareness of the need for privacy and access considerations to be built into contracts entered into by all departments and public bodies. (2005-2006 GN response)
<p>Review of Privacy Commissioner's Compensation The hourly rate has not changed since the IPC first undertook the position 7 years ago. The IPC requests that the hourly rate be reviewed with a view to implementing a reasonable increase.</p>	√				No response in the "GN's Response to the 2005-2006 Annual Report of the Information and Privacy Commissioner". (2005-2006 GN response)
<p>Educating Boards and Tribunals The leadership of all boards, tribunals and agencies should be required to receive basic training in the principles of access and privacy issues and be required to update that training periodically.</p>	√				GN agrees. However, many of the boards in Nunavut are federal and subject to federal Access to Information legislation. (2005-2006 GN response)
<p>Boards and Tribunals Boards and tribunals are subject to the Act, but because the members of these organizations are not government employees, there is some concern. The Act should be amended to clarify that individuals appointed to public bodies are subject to the Act by virtue of their appointment by a government agent. Policies should be created for all boards and agencies to establish the necessary protocols for handling records.</p>	√	√			Letters have been sent to all 35 boards, agencies and tribunals...the response has been positive and training sessions have begun with more training to be held in the new fiscal year. (2006-2007 GN response)

Information and Privacy Commissioner's Recommendations	Information and Privacy Commissioner's Annual Report				Most recent GN Response to the Information and Privacy Commissioner's Recommendation
	2005-2006	2006-2007	2007-2008	2008-2009	
<p>Private Sector Privacy Legislation PIPEDA (<i>Personal Information Protection and Electronic Documents Act</i>) is of limited practical effectiveness to deal with smaller, localized issues. PIPEDA does not protect privacy of employees unless the employee is working in a federally regulated business. "Made in the north" legislation should be created to deal with the protection of personal information in the private sector.</p>	√	√			The GN is reviewing whether to develop legislation similar to the federal legislation. In the absence of territorial legislation, PIPEDA applies to the private sector in Nunavut. (2006-2007 GN response)
<p>Openness of Contract Details It should be made clear that private companies contracting with the government should do so knowing that the accountability of government may require that details of the contract will be shared with the public.</p>	√	√			The GN is in the process of implementing clauses in all contracts stating the obligations of the contractor to comply with the Act. This will be monitored on an ongoing basis. (2006-2007 GN response)
<p>Municipalities Either amend the Act to include municipalities as "public bodies" or create legislation which deals with access and privacy matters at the municipal level. PIPEDA addresses only privacy issues. It does not address the right of citizens to have access to public records of municipalities.</p>	√	√	√		The GN agrees that privacy and access legislation is needed for municipalities but is reluctant when municipalities have neither the financial resources nor the staff capacity. The Federal Commissioner will accept privacy complaints regarding municipalities. (2007-2008 GN response)

Information and Privacy Commissioner's Recommendations	Information and Privacy Commissioner's Annual Report				Most recent GN Response to the Information and Privacy Commissioner's Recommendation
	2005-2006	2006-2007	2007-2008	2008-2009	
<p>The Role of the Information and Privacy Commissioner It is difficult to maintain an appropriate level of expertise on some issues. It may be time to consider a different approach to the office, perhaps by making it a half-time or a full-time position. Alternatively, it may be that the IPC needs to be given a budget to allow her to hire contract staff to carry out some of the functions of the office, to assist in investigations or with technical issues or with a public education campaign.</p>			√		The IPC is an independent oversight body reporting to the Legislative Assembly. Therefore the GN is unable to respond. (2007-2008 GN response)
<p>Privacy investigations The IPC has conducted reviews and recommendations on privacy complaints. There is, however, no obligation imposed on public bodies to co-operate with those investigations or to take any steps to address recommendations. The Act should be amended to allow for a review process where there is a concern that someone's personal information has been improperly collected or disclosed.</p>	√	√	√	√	<p>The GN will consider this recommendation. (2007-2008 GN response)</p> <p>(This recommendation was in the 1999 annual report and has been in every annual report except for the 2004-2005 report. The GN response has been the same since 1999.)</p>
<p>Electronic Records (mobile devices) In the email and internet usage policy, there is nothing on the use of other electronic media. It's important that written government policies regarding electronic medium keep up with changing technologies to ensure that government records are accessible when requested and to ensure that there are no inadvertent or accidental disclosures of personal information. To the extent that these policies already exist, they should be reviewed annually.</p>		√	√	√	The GN has recently developed a policy with respect to records produced and stored on personal computers and other personal or GN issued devices not always connected to the main network such as cell phones, laptops, PDAs, and other hybrid devices such as Blackberry. (2007-2008 GN response) (see attached policy on handheld devices)

Information and Privacy Commissioner's Recommendations	Information and Privacy Commissioner's Annual Report				Most recent GN Response to the Information and Privacy Commissioner's Recommendation
	2005-2006	2006-2007	2007-2008	2008-2009	
<p>Electronic Records Management It is vital that all government employees working with electronic medium and using the internet to communicate and exchange information understand the appropriate rules for storing and recording such transactions and that the records management system that relates to electronic records are strictly enforced.</p> <p>There seems to be no real government wide system for filing and storing e-mail communications. There needs to be an effort to devise a system which is to be used by all government employees with consequences for improper storage.</p>			√	√	The GN has a policy regarding emails and the use and retention of emails. This policy prohibits anyone from deleting or otherwise denying access to Government records including email messages and requires all employees to apply to electronic records the same Records Management Policies that apply to all GN Records. The GN recognizes that there is still more training needed and strives to improve on an ongoing basis. (2007-2008 GN response) (see attached policy on email and internet use) (see also other attached GN policies and procedures on records management)
<p>Limitation Period for Requesting Reviews In a number of cases, in which the request for review has been received in the IPC office a day or two after the 30-day deadline, the IPC has asked the public body to agree to allow the review to proceed in any event and the public bodies have complied. The IPC should be given discretion to extend the time for requesting a review in appropriate circumstances, except in the case where the issue is a third party objection to the disclosure of information.</p>			√	√	The GN will consider changes to the discretionary powers of the Commissioner in regards to this situation in any future amendments to the Act. (2007-2008 GN response)

Information and Privacy Commissioner's Recommendations	Information and Privacy Commissioner's Annual Report				Most recent GN Response to the Information and Privacy Commissioner's Recommendation
	2005-2006	2006-2007	2007-2008	2008-2009	
<p>Health Specific Privacy Legislation If Nunavut does not begin to consider the health privacy issues...it will find itself with few choices and the solutions already dictated by those jurisdictions which have led the charge, with little consideration for the unique needs and realities of health care in the north. The GN should begin the process of developing health sector privacy legislation as soon as possible.</p>			√	√	The GN is not in a position to develop new privacy legislation. The GN is currently developing its Electronic Health Record (EHR) system. A privacy work plan is currently being finalized to ensure that the EHR system is compliant with legislative requirements. The GN is actively participating in the Pan-Canadian Privacy Forum on "EHR Information Governance" and gaining significant insight and information on legislative requirements. (2007-2008 GN response) (see attached GN news releases dated September 10, 2008)
<p>Educating/Protecting our Children School curriculums should include specific information about electronic medium and strategies for protecting children from on-line risks, beginning at the elementary level.</p>			√	√	The current junior high school curriculum includes risk factors of media communications. Students are required to sign an agreement that they will only use the internet for learning purposes. As the Department of Education develops a new curriculum, this topic will be included at all grade levels. (2007-2008 GN response)
<p>Personal Email Employees should be reminded on an ongoing basis that personal emails are subject to the ATIPP Act and may be the subject of an access request.</p>				√	(The 2008-2009 GN response has not yet been tabled)

Information and Privacy Commissioner's Recommendations	Information and Privacy Commissioner's Annual Report				Most recent GN Response to the Information and Privacy Commissioner's Recommendation
	2005-2006	2006-2007	2007-2008	2008-2009	
<p>Legislative Review The ATIPP Act is 10 years old, with no substantive changes and no real review of the legislation or its effectiveness. The world has changed in 10 years, particularly in its capacity to move and exchange information. If legislation is to continue to be effective, it must change. (see attached news item dated July 16, 2009)</p>				√	(The 2008-2009 GN response has not yet been tabled)



News Release

Infoway Investment to Increase Access to Telehealth in Nunavut

Nunavut and Manitoba collaborate on \$2 million project

IQALUIT, Nunavut (September 10, 2008) – With the goal of increasing access to quality patient care, Minister of Health and Social Services Leona Aglukkaq and Richard Alvarez, President and CEO, Canada Health Inforway (*Infoway*) today announced a \$2 million dollar investment by *Infoway* to expand access to Telehealth for Nunavut residents.

“Through the investment in this project, we are able to upgrade our current Telehealth sites and add supplementary sites in the Chesterfield Inlet Naja Isabelle Home and all our southern boarding homes,” said Aglukkaq. “This partnership directly assists Nunavut’s Telehealth team. The idea is to increase the capacity of our community facilitators, develop a train-the-trainer program, and build a clinically based program for the Kivalliq and Kitikmeot regions.”

A key component of the Nunavut Telehealth Network Expansion and Change Management project is the collaboration with the MBTelehealth Network in Manitoba. MBTelehealth will share processes and knowledge with Nunavut Telehealth by providing training, peer support and increasing capacity to deliver 256 consultations each month, which is an increase of five per cent. As part of the project, a new Telehealth site will be developed at the boarding home in Winnipeg that hosts patients from Nunavut who seek medical care not available locally. This will help connect Nunavut families separated by long distances.

“We look forward to building on our existing relationship with the Telehealth program in Nunavut and working together to develop sustainable processes and tools to support increased use of Telehealth in Nunavut,” said Liz Loewen, MBTelehealth Director.

“Today’s Telehealth expansion is rooted in innovation and collaboration between Nunavut and Manitoba. We’re proud to invest \$2 million in this worthwhile project as part of federal government’s investments in technologies that are increasing access to quality patient care across Canada,” said Alvarez. “Like so many of Canada’s 250 other electronic health record projects, today’s expansion will remove barriers to patient care, save costs, and uncover vast health system efficiencies.”

The partnership between Manitoba and Nunavut will assist the Kivalliq and Kitikmeot programs by focusing on the following areas:

- Increasing use of Telehealth for consultations between providers and patients who live far away
- Improving discharge planning between southern facilities and Nunavut communities
- Increasing family connections for those in the boarding homes

Nunavut has been providing Telehealth services across the territory for a number of years. The Nunavut Telehealth Network Expansion and Change Management Initiative project is 100 per cent funded by *Infoway*.

About Canada Health Infoway

Canada Health Infoway is an independent, not-for-profit organization funded by the Federal government. *Infoway* jointly invests in projects with every province and territory to accelerate the development and adoption of electronic health record systems in Canada. Fully respecting patient confidentiality, this network of systems will provide clinicians and patients with a faster way to manage, access, share and safeguard patient health information. Accessing this vital information quickly will foster a more modern and sustainable health care system for all Canadians.

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 News releases are available in Inuktitut, English, Inuinnaqtun and French on www.gov.nu.ca.
 Tuhagtaghat ittut Inuktitut, Qablunaatitut, Inuinnaqtun Uiviititullu talvani www.gov.nu.ca.
 Les communiqués de presse sont disponibles en inuktitut, en anglais, en inuinnaqtun et en français à : www.gov.nu.ca.



News Release

Nunavut patient records to be electronic by 2012

IQALUIT, Nunavut (September 10, 2008) – Supporting the standardization and technological advancement of a Nunavut Electronic Health Record System, Leona Aglukkaq, Minister of Health and Social Services and Richard Alvarez, President and CEO, Canada Health Infoway (*Infoway*) today jointly announced a \$7.4 million dollar investment by *Infoway* towards Phase 2 of the department's E-health program. The investment is part of an overall \$11.6 million initiative to support Nunavut's E-Health vision and faster access to quality care for the territory's residents.

An electronic health record (EHR) is a secure and private lifetime record of a patient's health and care history. Implementation and adoption of EHRs for Nunavut's residents is a complex project that will be supported by collaboration between the territory and *Infoway*. By 2012, Nunavut's health care system will benefit from quick access to the comprehensive electronic health records of their patients saving time, increasing efficiencies, and increasing patient safety.

"We constantly evaluate the changing environment of our health care system, and with Canada Health Infoway's generous investment we are able to move forward in implementing a patient file system that can be more easily maintained and simpler to use," said Aglukkaq. "The electronic health record system aims to use technology and the Internet to improve the way healthcare is delivered by linking our health centres, hospital, and pharmacy to each other and to our southern partners."

Nunavut has been working in collaboration with *Infoway* since 2004. *Infoway* is the federally-funded not-for-profit organization that is leading the development and adoption of electronic health records across Canada.

"Providing all Canadian residents with an electronic health record is a tremendous accomplishment, particularly in remote areas like Nunavut," said Alvarez. "Today's investment means that by 2012, health care providers will have access to the vital health data of their patients at the click of a button. Not only will it increase patient safety throughout Nunavut, it will free up valuable clinical time, increasing access to patient care and saving money."

Every province and territory is currently working to develop, implement and adopt electronic health records for faster transfer of patient information, resulting in reduced wait times. The investment in Nunavut's electronic record project will help the territory meet its wait time



ACCEPTABLE EMAIL & INTERNET USAGE POLICY

POLICY STATEMENT

The purpose of this Policy is to establish the rules of acceptable use of Government of Nunavut networks and Internet services including E-mail, web-browsing, remote access, file transfer, program or equipment installation, password protection, and instant messaging.

E-mail and Internet use in Canada is governed by federal statute. The use of these services to transmit material that violates any applicable law, regulation, or the Government's Rules of Use is strictly prohibited.

PRINCIPLES

- The GN is committed to Inuit Qaujimajatuqangit principles of Piliriqatigiinni/ikajuqtigiinni (working together for a common cause) and Pilimmaksarniq/Pijariuqsarniq (development of skills through practice, effort and action).
- In accordance with Pinasuaqtavut values, self-reliance will be supported by supporting the integrity of the GNs networks and Internet services to ensure that government operates in a secure environment.
- In accordance with Pinasuaqtavut values, this policy will be fair, understandable, easy to understand and encourage staff participation and create accountability that should be supported and encouraged.
- The Government of Nunavut provides network services, including e-mail and Internet access for business purposes. The services shall be used in a manner which protects system resources and the information stored therein, and which is consistent with the provision of ethical, courteous and professional service to the Citizens of Nunavut.
- The integrity of Government networks and system resources is critical to the provision of that public service and accordingly the Government automatically monitors their performance and reliability.
- The Government of Nunavut has a statutory obligation to protect personal information by making reasonable security arrangements against unauthorized access, collection, use, disclosure or disposal of information and records under its control.



**DEPARTMENT OF COMMUNITY AND
GOVERNMENT SERVICES (CGS)**

ACCEPTABLE EMAIL & INTERNET USAGE POLICY

- Users should be aware that authorized requests under the Access to Information and Protection of Privacy Act, the Criminal Code of Canada, or during the Government's maintenance and system administration routines required to ensure reliability, traffic flow, and to exercise due diligence against liability for misuse, may require the disclosure of the contents of any document or email, personal or otherwise, to appropriate authorities.
- All messages generated on or handled by the Government's E-mail systems, including back-up copies, are considered to be the property of the Government, not the property of the user.
- Some non-business use of these services is provided for in article 14 of the Collective Agreement. That use is also subject to this Policy.

SCOPE

This Policy applies to all users of Government systems and it is intended that it meet the requirements of Article 14 of the Collective Agreement between the Government of Nunavut and the Nunavut Employees Union.

DEFINITIONS

Authority, Authorized and Unauthorized

Refer to the permission granted by the Government's Chief Information Officer, the Director Informatics Planning and Services, Department of Community and Government Services.

AUTHORITY AND ACCOUNTABILITY

1. The Minister

The Minister of CGS is accountable to Cabinet for the implementation of this policy.

2. Deputy Minister

The Deputy Minister of CGS:

- (a) is responsible for the administration of all provisions pursuant to this policy;



DEPARTMENT OF COMMUNITY AND
GOVERNMENT SERVICES (CGS)

ACCEPTABLE EMAIL & INTERNET USAGE POLICY

- (b) may through a letter of instruction, delegate authority to the Director of Informatics Services as seen appropriate by the Deputy Minister.

Deputy Ministers of each department have a general responsibility to ensure that their staff are aware of and are required to adhere to this Policy.

PROVISIONS

Security A user of the service shall not:

- break, or attempt to break, the security of any Government computer, system, software, or network;
- share or reveal anyone's password or access credentials, including one's own, or attempt to access any account or data without the right to do so;
- download from the Internet, or upload from any other medium, any software program, batch file, or other executable code, or connect any equipment to a Government network, without authorization from the Government's Informatics Planning and Services Division;
- engage in any activity that intentionally restricts, disrupts or degrades the Government's ability to deliver a service, including, but not limited to, the transfer of such large amounts of material as to deliberately inhibit the performance of a service;
- knowingly post, transmit or otherwise distribute a virus, bug, malicious code, "trojan horse", "worm" or other harmful or disruptive data;
- engage in an activity which does or may serve to violate generally accepted standards of Internet conduct and usage, including but not limited to the use of insulting language known as 'flaming'; denial of service attacks; web page defacement; port and network scanning; and any unauthorized system penetrations;



DEPARTMENT OF COMMUNITY AND
GOVERNMENT SERVICES (CGS)

ACCEPTABLE EMAIL & INTERNET USAGE POLICY

Content A user of the service shall not:

- post, transmit or otherwise distribute material which is unlawful, harassing, libelous, defamatory, profane, abusive, threatening, harmful, vulgar, obscene, sexually suggestive, hateful, invasive of another's privacy, or otherwise objectionable;
- distribute or provide access to data or information which is protected by copyright or other intellectual property rights, without attribution to the rights holder(s);
- post, transmit or otherwise distribute messages constituting "spam" including unsolicited non work-related e-mail messages, inappropriate postings to news groups, false commercial messages, junk mail and chain mail;
- deliberately access inappropriate Internet sites including those that contain sexually explicit or pornographic material, gambling activities, or materials which could be considered harassing, degrading, or discriminatory by others;
- provide access to confidential information belonging to the Government of Nunavut without appropriate authorization, or provide access to personal information, as those words are defined in the Access to Information and Privacy Act, except in accordance with proper authorization under that legislation;
- engage in any activity which, regardless of the purpose, constitutes appropriation of another person's identity;
- indicate affiliation with the Government of Nunavut without appropriate authorization;

Records A user of the service shall not:

- delete or otherwise deny access to Government records, including e-mail messages, or otherwise fail to apply to electronic records the same Record Management Policies that apply to all Government Records, including provisions for storage, retention and eventual destruction;



**DEPARTMENT OF COMMUNITY AND
GOVERNMENT SERVICES (CGS)**

ACCEPTABLE EMAIL & INTERNET USAGE POLICY

Program Partners

- Non-Government agencies, Crown Corporations and other outside program partners sometimes need to distribute their program information to affected GN employees. Such messages remain subject to the same rules that affect all system use, with the additional requirement that they shall be pre-approved by the Deputy Minister responsible for relations with that Program Partner.
- For example, in order to give effect to Articles 9.05 and 14 of the Collective Agreement with the NEU, messages may be broadcast specifically to Union members referring them to information posted on the NEU Internet Web site. In such cases, the Union shall submit its request to the Deputy Minister of Human Resources and provide the exact Internet address (called an 'URL') where the information is available.
- Upon approval, the Deputy Minister of Government Services will authorize posting an advisory notice to Union members informing them new information is available from the NEU Web site.

FINANCIAL RESOURCES

There are no direct costs associated to the implementation of this policy.

PREROGATIVE OF CABINET

Nothing in this policy shall in any way be construed to limit the prerogative of Cabinet to make decisions or take action respecting E-Mail and internet services acceptable use policy.

SUNSET CLAUSE

This policy shall be in effect from the date of the signature until October 31, 2010.

Paul Okalik, Premier



COMMUNITY AND GOVERNMENT SERVICES

ACCEPTABLE USE OF HANDHELD WIRELESS DEVICES POLICY

PREAMBLE

The use of wireless technology now requires a policy to ensure Government of Nunavut (GN) Information is handled in compliance with current GN policies and legislation. The *Archives Act*, the *Access to Information and Privacy Act*, records management policies and information security procedures require that the actions and decisions taken by the public servants be properly recorded, documented and secured. When significant information is exchanged or decisions are made in the course of a meeting, telephone call, instant text messaging, or via e-mail, staff must ensure that a record of the exchange is properly stored and managed using GN facilities.

PRINCIPLES

- The GN provides handheld wireless devices to employees where it is necessary for the effective performance of an employee's duties. These services shall only be used in a manner which protects system resources and the information stored therein, and which is accountable and consistent with the provision of ethical, courteous and professional service to Nunavummiut.
- The GN has a statutory obligation to protect electronic records and to maintain the continuity of government services.
- The GN is committed to Inuit Qaujimaqatigangit principles of Piliriqatigiinniq-
Ikajuqtigiinniq (working together for a common cause) and Pilimmaksarniq-
Pijariuqsarniq (development of skills through practice, effort and action).
- In accordance with Pinasuaqtavut values, self-reliance will be advanced by supporting the integrity of the GNs network operations and ensuring that government records are retained in a secure environment.
- In accordance with Pinasuaqtavut values, this policy will be fair, easy to understand and encourage staff compliance and accountability.
- The GN has a statutory obligation to protect personal information by making reasonable security arrangements against unauthorized access, collection, use, disclosure or disposal of information and records under its control.
- The GN has a statutory obligation to ensure that the public has access to all government records, including electronic ones.

DEFINITIONS

“Handheld Device” includes any portable wireless, telephone, Email or Internet communications device.

APPLICATION

This Policy applies to all GN employees who use wireless devices for government business and to all applicable agencies and crown corporations.

Rules of use:

1. Departments shall procure wireless telecommunications devices only in accordance with the requirements of Chapter 1000 of the Financial Accounting Manual regarding purchasing of information technology and only where staff members have agreed to comply with all related policies, procedures and guidelines laid out for such equipment by the Department of Community and Government Services and Informatics Planning and Services.
2. Prior to purchase, departments must provide Informatics and Planning Services with specific device requirements and specifications and once received, IPS must manage all aspects of device configuration and installation related to the security of their device.
3. Personally owned wireless devices must not be connected directly within any GN network. They may only be used from outside the GN firewall.
4. All wireless devices and their communications are subject to the GN's *Email and Internet Acceptable Use Policy*.
5. Peer to peer networking of wireless devices is strictly forbidden.
6. Wireless devices are capable of operating in an “always on” mode and can be susceptible to outside attacks. This is compounded by the fact that information is retained within the device and on non-GN computer systems belonging to the Service Provider providing wireless access. GN users assigned one of these devices shall therefore be accountable for security and privacy due diligence regarding all GN data and communications created through the use of their assigned device.
7. The integrity of Government networks and system resources is critical to the provision of that public service and accordingly the Government automatically monitors their performance and reliability. Failure by a user to adhere to policies pertaining to a wireless device can expose the GN to risks and vulnerabilities which result in legal and financial liability

8. All GN wireless communications records shall be subject to all laws, policies and procedures that apply to the management of any other GN information or record. As per the *Archives Act* and the Records Management Policy every decision and communication with respect to GN related business must be documented and accessible for posterity and reference.
9. Users should be aware that authorized requests under *the Access to Information and Protection of Privacy Act*, the *Criminal Code of Canada*, or during the GN's maintenance and system administration routines required to ensure reliability, traffic flow, and to exercise due diligence against liability for misuse, may require the disclosure of the contents of any record created or recorded stemming from the use of a handheld wireless device, personal or otherwise, to appropriate authorities.
10. All records created on, or duplicated from, a handheld device issued by the GN, including back-up copies, are considered to be the property of the GN, not the property of the user.
11. Some non-business use of handheld devices is provided for in article 14 of the Collective Agreement. That use is also subject to this Policy.

ROLES AND RESPONSIBILITIES

The Minister

The Minister of CGS is accountable to Cabinet for the implementation of this policy.

Deputy Minister

The Deputy Minister of CGS:

- (a) is responsible for the administration of all provisions pursuant to this policy;
- (b) may through a letter of instruction, delegate authority to the Corporate Chief Information Officer as deemed appropriate by the Deputy Minister.

Deputy Ministers of each department have are responsible to ensure that their staff are aware of and required to adhere to this Policy.

Departments

Departments will be responsible for:

- classifying, scheduling, and managing their records to meet the operational and administrative needs of their programs, including the need to be accountable for program operations;
- managing of records to meet the public policy requirements set out in the *Financial Administration Act*, the *Archives Act*, the *Access to Information and Protection of Privacy Act*, and other acts, regulations and policies that may affect their specific programs and records;
- accessing the advice and expertise available in other departments with managing records in the context of public policy; and
- designating a responsible official to be the departmental liaison with Records Management and develop records schedules for operational requirements, and to deal with public policy issues that may arise with respect to their records.

PREROGATIVE OF CABINET

Nothing in this policy shall in any way be construed to limit the prerogative of Cabinet to make decisions or take action respecting E-Mail and internet services acceptable use policy.

SUNSET CLAUSE

This policy shall be in effect from the date of the signature until June 30, 2012.

Paul Okalik
Premier

NEWS: Nunavut July 16, 2009 - 9:48 am CHRIS WINDEYER NunatsiaqOnline 2009-07-16
Privacy act needs updating, commissioner says

After 10 years, it's time for Nunavut's information and privacy law to get an update, says the woman who administers the legislation.

Elaine Keenan Bengts, the information and privacy commissioner, is urging the Government of Nunavut to examine the law for the first time since division.

"The world has changed dramatically in 10 years, particularly in its capacity to move and exchange information, and if the legislation is to continue to be effective it must change with and address those technologies," Keenan Bengts wrote in her 2008-09 annual report, tabled in the legislature last month.

In her annual report, tabled last month in the legislature, Keenan Bengts wrote that enforcement provisions in the information and privacy act need to be beefed up.

The current act doesn't give the commissioner any way to force government departments to comply and provides only for a maximum fine of \$5,000.

The act also says that violators must knowingly break the rules. "Most of the privacy complaints that reach me are as a result of inadvertence or occur because not enough thought has been focused on the privacy aspects of the matter," Keenan Bengts wrote.

She also urges the government to give her office the ability to force government bodies to cooperate with investigations.

Premier Eva Aariak wasn't available to comment, but in an email, her press secretary Yasmina Pepa wrote that the premier would provide a formal response during the fall legislative session that begins Nov. 24.

"The premier and the GN are taking the privacy commissioner's report and recommendations seriously," Pepa wrote.

Keenan Bengts also says that the government also needs to draw up clear rules on email records.

"There seems to be no real government-wide system for filing and storing email communications. Each individual employee has his or her own system. One person might delete everything within a week, the next [might] never delete anything."

GN workers should also be regularly reminded that personal emails sent from GN accounts are still classified as government records and are subject to the information and privacy act, Keenan Bengts wrote.

Pepa wrote that the GN's internet policy "prohibits anyone from deleting or otherwise denying access to Government records including e-mail messages."

She also wrote that GN employees are instructed to store records on the GN's main computer servers and that they receive regular training on the proper storage of electronic documents.

The report also urges the government to extend the deadline for a request for review of an access to information or privacy request and the creation of legislation governing the privacy of electronic health records.

**ELECTRONIC RECORDS
RECORDS RETENTION AND DISPOSAL AUTHORITY**

RDA.No.3

GOVERNMENT OF NUNAVUT.

RECORDS RETENTION AND DISPOSITION AUTHORITY.

RDA.No3

**ELECTRONIC RECORDS.
ON-GOING SCHEDULE.**

Schedule prepared by Records Management, Public Works & Services (PW&S) in 2002.
Schedule submitted to the March 12, 2002 meeting of the Public Records Committee (PRC).

1. Schedule is approved by PRC.

_____	_____
Edward Atkinson Chair, PRC	Date

2. Schedule is not approved by PRC.

_____	_____
Edward Atkinson Chair, PRC	Date

3. Schedule is returned to Records Management for the following amendments:

_____	_____
Edward Atkinson Chair, PRC	Date

ELECTRONIC RECORDS
RECORDS RETENTION AND DISPOSAL AUTHORITY

RDA.No.3

Purpose of retention and disposal authority RDA.NO.3

The purpose of this schedule is to ensure that retention and disposition are covered by an approved records schedule in accordance with the Archives Act and any other GN legislation, policies, directives and standards and to authorize the deletion of electronic records.

The retention and final disposition instructions specified in the attached ongoing records schedule meet the creating agencies , information requirements, ensure fiscal and audit control, protect the government 's legal rights and liabilities, and provide for effective management of the agencies, operational functions. Upon expiry of the active and semi-active retention periods, the records covered by this recommendation will no longer be of any primary value to the government; they are disposed of by way of deletion or transfer to archives.

Description and purpose of records

These records are created and received by users of electronic systems in offices of the Government of Nunavut. Electronic records contain information that may be either transitory or required for significant purposes.

Transitory electronic records

If an electronic record meets the criteria for a transitory record under Transitory Records Schedule, RDA.#1, it may be disposed of according to that schedule.

All other electronic records

All other electronic records should then be classified according to the Administrative Records Classification System (ARCS) or the appropriate Operational Records Classification System\Schedule (ORCS).

Definitions

Non-record Copy

Non-record copy refers to any duplicate copy of a record.

Office of Primary Responsibility (OPR)

This term refers to the division or program area of a department which has primary responsibility for a specific category of records or which holds the master of any records series. The OPR maintains the official master copy of the record in order to satisfy operational, financial, legal, audit and other requirements.

ELECTRONIC RECORDS
RECORDS RETENTION AND DISPOSAL AUTHORITY

RDA.No.3

Records Management appraisal of the records

The records described in the ongoing authority covering electronic records are created and received under the authority of the various enabling statutes of the Government of Nunavut, subsequent legislation governing the administrative and operational responsibilities and functions of the creating agencies, and other statutes governing the administration of the Government of Nunavut.

Records Classification and Retention Periods

The following codes are used in records management:

A	Active record	These records are retained in the office of origin.
SA	Semi-active record	These records are retained in a GN records centre.
FD	Final Disposition	This refers to the final disposition of a record. Disposition may occur through transfer of records to the GN Archives, physical destruction, transfer to another government department, board or agency, or transfer to a non-GN entity.
D	Destroy	Physical destruction.
AS/D	Archival Selection	Record is transferred to the GN Archives for possible selection and permanent retention. Records not selected by the Archivist are then returned to Records Management and destroyed.
Nil	No assigned retention	These records have no assigned semi-active retention period.

Type of records covered by schedule: Administrative and Operational

Effective date of records schedule: March 12, 2002

Type of schedule: Electronic Records

Schedule approved by Public Records Committee on:

ELECTRONIC RECORDS
RECORDS RETENTION AND DISPOSAL AUTHORITY

RDA.No.3

ELECTRONIC RECORDS

Electronic records are created and received by users and that are recorded on a medium and in symbols (binary digits) that need a computer or similar technology to read and understand. Electronic records contain information that may be either transitory or required for on-going purposes.

Transitory electronic records

If an electronic record meets the criteria for a transitory record under Transitory Records Schedule, RDA #1, it may be disposed of according to that schedule.

All other electronic records

All other electronic records should be classified according to the Administrative Records Classification System (ARCS) or the appropriate Operational Records Classification System\Schedule (ORCS).



Community Government and Services

RECORDS MANAGEMENT POLICY

PURPOSE

The purpose of this policy is to provide guidance to departments in managing their records while they are in the department's care and custody. It assigns operational responsibility for managing records to the department that creates them, and defines a framework to facilitate the necessary co-operation on corporate and public policy issues related to records management.

PRINCIPLES

1. This policy is consistent with the Pinasuaqtavut Mandate priority of simplicity and unity and supports the following objective:
 - 1. The structures and activities of government serve Nunavut's needs, with the most effective use of resources;*

APPLICATION

This Nunavut policy applies to any "government body" as defined in the Archives Act meaning the Legislative Assembly or a department or division of the Government of Nunavut and includes the office of any commission, board, bureau or other branch of the public service

DEFINITIONS

Record

As defined in the Access to Information & Protection of Privacy Act and the Archives Act.

Records Management

Means the set of tools, practices and procedures by which departments create, organize, accumulate, and finally, dispose of their records.

ROLES AND RESPONSIBILITIES FOR THE IMPLEMENTATION AND ADMINISTRATION OF THIS POLICY

1. This Policy is issued under the authority of the Executive Council. The authority to make exceptions and approve revisions to the Policy rests with the Executive Council.
2. The Minister of CGS is accountable to the Executive Council for the implementation of this policy.
3. The Deputy Minister of CGS is responsible to the Minister of CGS for the administration of this Policy.

PROVISIONS

1. The first goal of records management is to help Program Managers deliver programs to the public. Records provide an essential support to decision making, and provide a basis for accountability for those decisions. Primary responsibility for records management therefore lies with each department that creates records in the course of delivering programs and services.
2. In addition to operational requirements, there are important public policy issues that impact on how a department manages its programs' records:
 - I. protecting the government's overall legal and fiscal interests (some referenced in the Financial Administration Act),
 - II. preserving an historical record of government operations (referenced in the Archives Act), and
 - III. providing public access to information and protecting the privacy and other rights of individual citizens (referenced in the Access to Information and Protection of Privacy Act [ATIPP]).
 - IV. other legislation that impacts on specific programs and records.
3. Responsibility for addressing public policy needs lies with the individual departments and programs that create and manage records, except to the extent that specific responsibilities are assigned to others in legislation.
4. When records are no longer required by departments for operational purposes, the destruction and archival care of records is governed by the Archives Act.
5. Recognizing that there is a need for specialized technical assistance to program managers, and that there is value in having departments take a consistent approach to meeting the public policy needs, this policy assigns responsibility to Community Government and Services, Records Management to provide standardized support services to departments.

DIVISION OF RESPONSIBILITY OF RECORDS MANAGEMENT

Records Management Division of Community Government and Services

The Records Management Division is charged with standardizing, promoting and coordinating a corporate perspective on information management. Within the context of its interest in information management, the division will:

1. Provide advice on public policy and other corporate issues relating to managing the government's records;
2. Promote opportunities for the government to improve program delivery through improved records management;
3. Encourage and organize inter-departmental co-operation on initiatives and services that can be done more economically or more effectively in a co-operative manner;
4. Promote the development of corporate strategies, standards and infrastructure to support the integration of a corporate perspective into all information management systems by:
 - I. identifying needs,
 - II. reviewing and approving written strategies that will form the basis of interdepartmental consultation, and endorsing standards arising from those consultations.

Departments

Departments will be responsible for:

1. Classifying, scheduling, and managing their records to meet the operational and administrative needs of their programs, including the need to be accountable for program operations;
2. Managing their records to meet the public policy requirements set out in the FAA, the Archives Act, the ATIPP Act, and other acts and regulations that may affect their specific programs and records;
3. Accessing the advice and expertise available in other departments with respect to managing records in the context of public policy;
4. Designating a responsible official to be the departmental liaison with Records Management and develop records schedules for operational requirements, and to deal with public policy issues that may arise with respect to their records.

Community Government and Services and Finance

The Department of Community Government and Services, and Finance, will be responsible for supporting the activities of the Records Management and helping program departments achieve their goals by:

1. In consultation with all departments, developing strategies, plans and standards that will enable government departments to realize opportunities for coordinating and sharing information management resources and investments;
2. Developing and managing infrastructure that is shared by government departments;
3. Providing insight and guidance on the applications of information management principles to various technology tools that are used to manage information;
4. Operating a records centre where departments may store semi-active records according to retention schedules developed by departments to meet their operational requirements.

Others

Other departments, particularly Justice, Executive and Intergovernmental Affairs have special skills that may be required from time to time to advise departments on the handling of their records. These departments will designate contact people who can provide advice when required.

PREROGATIVE OF EXECUTIVE COUNCIL

Nothing in this Policy shall in any way be construed to limit the prerogative of the Executive Council to make decisions or take actions regarding records management, outside the provisions of this Policy.

Approved by:
The Honourable Paul Okalik
Premier



Procedures for Retention and Handling GN Employee Electronic Records when leaving the GN or changing departments

All records received or created by employees of the Government of Nunavut while carrying out their duties are **government property** and, consequently, are subject to the Government legislation, policies, and standards set by Records Management, the Archives Act, and the Access to Information and Protection of Privacy (ATIPP) Act.

Most records at each employee's desk, including electronic documents and e-mails, belong to the Government of Nunavut at all times and as such must be managed as part of each department or agency's records management program. Working files kept at any employee's desk are public records. Work-related records located outside the office, such as at the employee's home, remain Government records at all times. Employees do not own the work that they do for the Government of Nunavut. Public records must be retained, managed, and **filed** by the owning Department according to Government of Nunavut standards and practices. They **CANNOT be thrown away, destroyed, kept as personal mementos by the departing employee, or transferred to the new Department.**

When GN Employees leaves the Government of Nunavut (GN) or changes departments with the GN the procedure below will be followed regarding the retention of their electronic records.

- When an employee gives notice to the GN that they are leaving the GN or changing departments within the GN, the employee will have up until 5:00 PM on the last day in the position they are leaving to remove personal records from both the 'U' drive and Outlook.
- The Employee's GN electronic records and emails must be coded and stored by fiscal year and moved to the Departmental "Y" to the appropriate folder with the proper security. These records must be organized by disposition/retention date for ATIPP and litigation purposes so that Records Management knows when to send records to the Archives or have them destroyed. This should be done by the employee before leaving their position.
- Files remaining on the 'U' and Outlook will be moved by IT to the Departmental Folder on the Archives Server.
- The departing employee's access to the "U" & "Y" drive will be disabled immediately after the last day of work.
- The Human Resources Section of the Department will inform the Head of the Department or Division or Records Manager/Officer of the Department that the person is leaving and the last date of work.
- The Head of the Department or Division or Records Manager/Officer of the Department will send in a **Request to Archive Employees Electronic Records Form** to Help Desk to Archive the employees account.
- Informatics Services will disable email and archive all email records after 5:00 PM on the employee's last day in the position they are leaving. If they are transferring to another Department within the GN, Informatics will create a new email account for the employee in the new Department.
- Access to these electronic records, including email archives, will be given to Records Management an authorized Records Manager or ATIPP Coordinators when responding to an *ATIPP Request*, *Request for Records*, and to authorized employees of the owning department only upon completion of an authorized *Request for Data*.