

Table of Contents

- Introduction 3
- This Time at a Glance* 3
- Key Successes*..... 4
- 2020-2023 Access Request Statistics 4
- 2020-2023 Privacy Impact Assessments and Preliminary Privacy Impact Assessments 7
- ATIPP Training Statistics 2020-2023..... 8
- Response to the 2020-2021 Annual Report of the Information and Privacy Commissioner 10
- Response to the 2021-2022 Annual Report of the Information and Privacy Commissioner 11
- Response to the 2022-2023 Annual Report of the Information and Privacy Commissioner 12

Introduction

There is no statutory requirement for the Government of Nunavut to table an annual report on the Administration of the *Access to Information and Protection of Privacy Act* (ATIPP). However, the Department of Executive and Intergovernmental Affairs (EIA) has tabled a report covering each fiscal year since 2003-2004 in an effort to provide decision makers with the information they may need to understand and improve the ATIPP function. Annual reporting has not been completed since March 31, 2020 and this report covers the three years to March 31, 2023.

Statistics on the administration of the *ATIPP Act* are recorded individually by each public body before the information is compiled centrally in the ATIPP office within EIA.

This report provides a summary of:

- Information on important updates and work done under the ATIPP function throughout each fiscal year;
- Formal requests received by public bodies under the *ATIPP Act* between April 1, 2020 and March 31, 2023;
- Privacy Impact Assessments and Preliminary Impact Assessments received during each fiscal year;
- Training provided by the Territorial ATIPP Office during each fiscal year; and,
- Responses to concerns raised in the Information and Privacy Commissioner's annual reports.

This Time at a Glance

2020 to 2023 was a time of growth and change for the Territorial ATIPP Office and the administration of ATIPP in general. This time had many major events such as the appointment of a Nunavut-based Information and Privacy Commissioner for the first time in Nunavut's history, the end of the COVID-19 pandemic, and the start of the 6th Legislative Assembly.

Sadly, it was also during this time that our former Information and Privacy Commissioner, Elaine Keenan Bengts, passed away following a battle with Cancer in August of 2022. Elaine was a fierce advocate for access to information and privacy in Nunavut and helped to shape the administration of the *ATIPP Act* in Nunavut. Her

tireless efforts to make Nunavut a more open and better place will be missed, and our condolences go out to her family.

Key Successes

Review of Government of Nunavut Shared Drives

The Government of Nunavut uses structured systems of networked drives to facilitate the storage and sharing of records among employees. These include:

- U-drives, designated for individual and personal use,
- The now-decommissioned V-drive, which was universally accessible to all Government of Nunavut employees within a given community, and
- The Y-drives, which are configured for each public body per community.

In 2021-2022, the Information and Privacy Commissioner turned his attention to the V-Drive following a privacy breach complaint. His extensive review found that the drive did not have the reasonable safeguards necessary to protect against the risk of privacy breaches. In response to his privacy breach report, the department of Community and Government Services decommissioned the v-drive permanently.

Following the decommissioning of the V-drive the Information and Privacy Commissioner asked that each public body conduct a thorough audit of the Y-drive's infrastructure and usage, stemming from concerns over potential privacy breaches. We are pleased to report that all thirteen public bodies complied, executing their self-audits diligently and presenting their findings to the Commissioner. This was a major undertaking for public bodies, taking dozens of person hours to complete.

The Commissioner determined that the current Y-drive configuration fails to satisfy the “reasonable security arrangements” criteria required by section 42 of the ATIPP Act. In June of 2023, the Commissioner put forth a set of recommendations aimed at mitigating the risk of potential privacy breaches, including planning for the decommissioning of the Y-drive. The Government of Nunavut has agreed with this recommendation and the Department of Community and Government Services has committed to replacing the current Y-drive with a system that incorporates privacy by design. This work continued throughout 2023-2024.

2020-2023 Access Request Statistics

Between 2020 and 2023, a total of 471 formal access to information requests were received by public bodies under the *ATIPP Act*. Requests for access to information were placed in both English and French, though the department is prepared to handle requests in any of the official languages of Nunavut. The table below lists public bodies

that received one or more formal requests. The Departments of Health, Justice, Family Services, Community and Government Services, and Human Resources continue to be the busiest departments with the most requests.

While there is some fluctuation, law firms, the media and members of the public are the main categories of applicant under the legislation.

The total number of ATIPP requests fluctuated from year to year, with 2021-2022 being one of the busiest years for ATIPP on record. This was driven by a larger than normal number of requests made to the Departments of Justice, Health, and Community and Government Services. There was a larger than normal number of requests made by law firms and lawyers in the 2021-2022 fiscal year as well.

There are two types of ATIPP requests: general requests and requests for personal information. On average there are more general requests made each year than requests for personal information.

Number of Requests by Public Body

Public Body	2020-2021	2021-2022	2022-2023
Community and Government Services	10 (8%)	23 (12%)	14 (9%)
Culture and Heritage	1 (1%)	1 (1%)	2 (1%)
Economic Development and Transportation	1 (1%)	5 (3%)	6 (4%)
Education	21 (17%)	15 (8%)	15 (10%)
Environment	6 (5%)	10 (5%)	11 (7%)
Executive and Intergovernmental Affairs	2 (2%)	5 (3%)	4 (3%)
Family Services	8 (6%)	15 (8%)	16 (10%)
Finance	4 (3%)	8 (4%)	5 (3%)
Health	28 (22%)	46 (25%)	31 (20%)
Human Resources	15 (12%)	16 (9%)	21 (13%)
Justice	23 (18%)	31 (17%)	20 (13%)
Nunavut Arctic College	2	0	3

	(2%)		(2%)
Nunavut Housing Corporation	4 (3%)	6 (3%)	2 (1%)
Qulliq Energy Corporation	2 (2%)	2 (1%)	3 (2%)
Nunavut Business Credit Corporation	0	0	1 (1%)
Nunavut Development Corporation	0	1 (1%)	1 (1%)
Nunavut Liquor and Cannabis Commission	0	3 (2%)	0
Total	127	187	155

Percentages have been rounded to the nearest whole number: the percentage per year may not add to 100.

Categories of Applicants

Category	2020-2021	2021-2022	2022-2023	Total
Advocate	1 (1%)	0	0	1 (<1%)
Business/Corporation	7 (6%)	7 (4%)	10 (6%)	24 (5%)
Government	1 (1%)	0	0	1 (<1%)
Inuit Organization	1 (1%)	1 (1%)	0	2 (<1%)
Law Enforcement	0	0	1 (1%)	1 (<1%)
Law Firm/ Lawyer	24 (19%)	46 (25%)	7 (5%)	77 (16%)
Media	13 (10%)	51 (27%)	45 (29%)	109 (23%)
Organization/ Association	3 (2%)	1 (1%)	7 (5%)	11 (2%)
Public	66 (52%)	59 (32%)	82 (53%)	207 (44%)
Researcher	8 (6%)	16 (9%)	1 (1%)	25 (5%)
Unknown	3 (2%)	6 (3%)	2 (1%)	11 (2%)
Total	127	187	155	469

Percentages have been rounded to the nearest whole number: the percentage per year may not add to 100.

Requests By Type

Type	2020-2021	2021-2022	2022-2023	Total
General	47	119	81	247
Personal Information	79	66	74	219

There were three requests with no recorded type.

2020-2023 Privacy Impact Assessments and Preliminary Privacy Impact Assessments

In Fiscal year 2020-2021 eleven (11) preliminary impact assessments were completed by the following Departments:

Department	Preliminary Privacy Impact Assessments
Community and Government Services	2
Culture and Heritage	1
Family Services	1
Finance	1
Health	4
Justice	2

During Fiscal Year 2021-2022 fifteen (15) preliminary privacy impact assessments and one (1) Privacy Impact Assessment was submitted to the Territorial ATIPP Office:

Department	Preliminary Privacy Impact Assessments	Privacy Impact Assessment
Culture and Heritage	1	
Economic Development and Transportation	2	
Education	1	
Family Services	1	
Health	6	
Human Resources	1	
Justice		1
Nunavut Arctic College	3	

During fiscal year 2022-2023 eleven (11) preliminary privacy impact assessments and one (1) privacy impact assessment was submitted to the Territorial ATIPP Office:

Department	Preliminary Privacy Impact Assessments	Privacy Impact Assessment
Community and Government Services	1	
Education	2	
Family Services	1	
Finance	1	
Health	4	
Justice	1	
Nunavut Arctic College	1	
Worker Safety and Compensation Commission		1

ATIPP Training Statistics 2020-2023

The Government of Nunavut (GN) is committed to the successful implementation of the *ATIPP Act* throughout all public bodies. EIA provided training sessions on the legislation throughout each fiscal year through the Territorial ATIPP Office.

2020-2021					
Date	Location	Audience	Participants	Type	Presenter
4-Feb-21	Iqaluit	Various GN employees	6	Basic Introduction to ATIPP	ATIPP Manager
5-Feb-21	Iqaluit	Various GN employees	7	Basic Introduction to ATIPP	ATIPP Manager
15-Feb-21	Iqaluit	Various GN employees	3	Basic Introduction to ATIPP	ATIPP Manager
17-Feb-21	Iqaluit	Various GN employees	24	Basic Introduction to ATIPP	ATIPP Manager
18-Feb-21	Iqaluit	Various GN employees	5	Basic Introduction to ATIPP	ATIPP Manager
19-Feb-21	Iqaluit	Various GN employees	8	Basic Introduction to ATIPP	ATIPP Manager

1-Mar-16	Iqaluit	Various GN employees	5	Basic Introduction to ATIPP	ATIPP Manager
Feb - Mar	Iqaluit	Culture and Heritage	2	ATIPP Coordinator Training	ATIPP Manager
Total			60		
2021-2022					
Date	Location	Audience	Participants	Type	Presenter
May 31 to June 2	Iqaluit	Economic Development and Transportation	2	ATIPP Coordinator Training	ATIPP Manager
29-Jun-21	Online - Kivalliq	Summer Students	15	Basic Introduction to ATIPP	ATIPP Manager
30-Jun-21	Online - Kivalliq	Summer Students	15	Basic Introduction to ATIPP	ATIPP Manager
22-Jul-21	Iqaluit	Record Information Management Training	7	Basic Introduction to ATIPP	ATIPP Manager
29-Jul-21	Iqaluit	Record Information Management Training	8	Basic Introduction to ATIPP	ATIPP Manager
16-Jul-21	Iqaluit	Director and ATIPP Coordinator	2	ATIPP Coordinator Training - Intro	ATIPP Manager
16-Jul-21	Iqaluit	ATIPP Coordinators	2	ATIPP Coordinator Training - Requests	ATIPP Manager
24-Aug-21	Online	Various GN Employees	10	Basic Introduction to ATIPP	ATIPP Manager
12-Oct-21	Online	Various GN Employees	5	Basic Introduction to ATIPP	ATIPP Manager
8-Nov-21	Iqaluit	ATIPP Coordinators	8	Introduction to ATIPP	ATIPP Manager
9-Dec-21	Iqaluit	Various GN Employees	13	Basic Introduction to ATIPP	ATIPP Manager

9-Dec-21	Online	Various GN Employees	4	Basic Introduction to ATIPP	ATIPP Manager
24-Feb-22	Online	Ministerial Political Advisors and Executive Secretaries	20	ATIPP and How it Interacts with the Legislative Assembly	ATIPP Manager
Total			111		
2022-2023					
Date	Location	Audience	Participants	Type	Presenter
28-Jun-22	online	Various GN employees	18	Basic Introduction to ATIPP	ATIPP Manager
25-Aug-22	online	Various GN employees	5	Basic Introduction to ATIPP	ATIPP Manager
12-Sep-22	online	ATIPP Coordinators	10	ATIPP Coordinator Training - Information Requests	ATIPP Manager
14-Oct-22	Iqaluit	Various GN employees	8	Basic Introduction to ATIPP	ATIPP Manager
19-Oct-22	Iqaluit	Various GN employees	6	Basic Introduction to ATIPP	ATIPP Manager
28-Feb-23	online	Various GN employees	3	Basic Introduction to ATIPP	ATIPP Manager
Total			50		

[Response to the 2020-2021 Annual Report of the Information and Privacy Commissioner](#)

Ransomware

In the Commissioner's annual report he raised concerns that there had been no public accounting by the Government of Nunavut of what happened during and after the ransomware attack that occurred on November 1-2, 2019.

We note that this file was considered closed in the Commissioner's 2021-2022 Report following his investigation. We thank him for his attention to this matter.

Under-reporting of Privacy Breaches

The Commissioner raised concerns that privacy breaches were being underreported by the Government of Nunavut.

This is an area of concern for the Government of Nunavut as well, and we encourage staff as part of privacy related training to report all privacy breaches to their ATIPP Coordinator.

Privacy breach reporting seems to be increasing. The following number of breaches were reported by fiscal year during the period covered by this report:

	2020-2021	2021-2022	2022-2023
Number of breaches reported	20	46	69

Not all privacy breaches will be reported to the Information and Privacy Commissioner, with only material breaches requiring notification by law.

Failure to Exercise Discretion

The Commissioner raised concerns in his report that the Government of Nunavut was not adequately exercising its discretion when redacting information from ATIPP requests under discretionary exemptions of the ATIPP Act.

This is a recommendation that the Government of Nunavut takes seriously. We note that efforts have been made to better support departmental ATIPP coordinators to show how they've exercised their discretion, including updated Manuals, training seminars and updated exemption rationale templates.

It is an area where we want to continue to improve upon and we are committed to working with the Information and Privacy Commissioner in this area.

[Response to the 2021-2022 Annual Report of the Information and Privacy Commissioner](#)

The Law Needs to be Amended

The Commissioner, in his opening message, declared that the ATIPP Act was no longer adequate and needed to be updated.

We agree that it is important to keep the *ATIPP Act* up to date.

While the *ATIPP Act* predates the territory's creation, this does not mean that we have not largely kept up to date with best practices in other jurisdictions. There were significant amendments to the legislation in both 2012 and 2017.

We commit to fully engaging the Information and Privacy Commissioner on any future amendments and always welcome his feedback on how the legislation can be improved.

Discretion is Still Not Being Exercised

The Commissioner repeated his concern from his 2020-2021 report that the Government of Nunavut was not doing enough to exercise discretion when using discretionary exemptions to redact information from ATIPP Requests.

As discussed under the 2020-2021 Annual Report response, we are committed to working with the Information and Privacy Commissioner in this area and want to find ways to better communicate our use of discretion to both his office and to applicants under the *ATIPP Act*.

We Helped Shut Down an Unprotected Network Drive

The Commissioner spoke about being notified about the issues regarding the V-drive and working with Community and Government Services and the Territorial ATIPP Manager to decommission these drives in their entirety.

While we highlighted this initiative as one of our key successes during this time period, we wanted to further thank the Information and Privacy Commissioner for his assistance in investigating the matter. This initiative is a good example of what can be accomplished when the Government of Nunavut and the Information and Privacy Commissioner work closely together.

[Response to the 2022-2023 Annual Report of the Information and Privacy Commissioner](#)

Municipal ATIPP

*The Commissioner spoke to comments made by the former deputy Minister of Executive and Intergovernmental Affairs comments during the review of his previous annual reports that indicated that adding municipalities as public bodies under the *ATIPP Act* was not being pursued.*

There are two main barriers to implementing the municipality specific provisions of the *ATIPP Act*:

- Capacity among municipalities to administer the requirements of the *ATIPP Act*;
- Insufficient Records Management systems at the municipal level.

Our current focus is meeting our existing obligations under the *ATIPP Act* and regulations through reforms to the existing ATIPP framework.

Police Act Consultations

The commissioner raised concerns that, while the Department of Justice has previously committed to consulting with his office on the new Police Act in June of 2021, that he had not yet been consulted.

The Department of Justice remains committed to consulting with the Information and Privacy Commissioner on the *Police Act*. The Department is currently working on finalizing its proposals for the Act's regulations and an agreement with a civilian oversight body to conduct external investigations of serious incidents involving the RCMP. As soon as there are sufficient details to review, the Department intends to consult with the Commissioner and request his feedback and recommendations.

Prosecutions under the ATIPP Act

The Commissioner raised concerns that, while section 59 of the ATIPP Act creates an offence, that prosecution appears impossible.

The Department of Justice acknowledges that there are barriers to prosecuting territorial offences, including the offences set out in section 59 of the *ATIPP Act*; notably:

- There is currently a six-month limitation period, commencing the date the alleged offence occurred. As privacy breaches are often not discovered immediately, there is often insufficient time to properly investigate and lay charges within this limitation period.
- The maximum penalty is \$5000.00. Pursuing charges with such a low penalty is often not an efficient use of limited resources.
- It is difficult to pursue territorial charges against a person who is no longer in Nunavut.

The *Summary Conviction Procedures Act* authorizes the Attorney General for Nunavut to prosecute offences created by territorial laws. This Act also authorizes the Attorney General for Nunavut to enter into agency agreements with the Public Prosecution Service of Canada to prosecute territorial offences.

The Department of Justice has the authority to prosecute offences set out in the *ATIPP Act*; either on its own or through its agreement with the Public Prosecution Service of Canada. Potential conflicts of interest can be managed through multiple means, such as

by retaining external counsel to prosecute on behalf of the Attorney General. This practice is commonly used in other provinces and territories.

The RCMP and Public Prosecution Service of Canada currently investigate and prosecute summary offences in territorial legislation through agreements with the Government of Nunavut. As both entities are separate and independent from the Government of Nunavut, the Government cannot comment on their operational and prosecutorial decisions.