



Standing Committee on Oversight of Government Operations and Public Accounts

***Report on the Review of the 2023-2024 Annual Report of the
Information and Privacy Commissioner of Nunavut***

**2nd Session of the 6th Legislative Assembly of Nunavut
Spring 2025 Sitting**

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Introduction and Chronology of Recent Events

The *Access to Information and Protection of Privacy Act* was inherited upon division on April 1, 1999.

The most recent set of significant amendments to the *Access to Information and Protection of Privacy Act* were made in 2017. Bill 48, *An Act to Amend the Access to Information and Protection of Privacy Act*, received 1st Reading on June 6, 2017. The Bill received Assent on September 19, 2017.

Bill 59, *An Act to Amend the Access to Information and Protection of Privacy Act*, received 1st Reading during the Legislative Assembly's sitting of October 25, 2024. It was subsequently withdrawn from the Order Paper by way of a motion introduced on October 30, 2024, by the sponsor of the Bill, the Minister of Executive and Intergovernmental Affairs.

Section 61 of the *Access to Information and Protection of Privacy Act* provides, in part, that:

Appointment of Information and Privacy Commissioner

61. (1) The Commissioner, on the recommendation of the Legislative Assembly, shall appoint an Information and Privacy Commissioner to carry out the duties and functions set out in this Act and shall undertake other duties and functions in addition as required by other legislation.

The current incumbent, Graham Steele, assumed office on January 11, 2021. His term office expires on January 10, 2026. His predecessor, the late Elaine Keenan Bengts, served from November 15, 1999 to January 10, 2021.

The 2020-2021 annual report of the Information and Privacy Commissioner was tabled in the Legislative Assembly on September 9, 2021. The 2021-2022 annual report was tabled on May 25, 2022. The standing committee held a televised hearing on the annual reports from September 26-27, 2022. The standing committee subsequently presented its report to the House on November 8, 2022. The Information and Privacy Commissioner's response to the report of the standing committee was tabled in the Legislative Assembly on March 6, 2023. The Government of Nunavut's response to the standing committee's report was tabled in the Legislative Assembly on May 24, 2023.

The 2022-2023 annual report of the Information and Privacy Commissioner was tabled in the Legislative Assembly on May 24, 2023. Televised standing committee hearings on this annual report were held from April 19-20, 2024. The standing committee subsequently presented its report to the House on May 27, 2024. The Information and Privacy Commissioner's response to the report of the standing committee was tabled in the Legislative Assembly on October 24, 2024. The Government of Nunavut's response to the report was also tabled in the Legislative Assembly on October 24, 2024.

The 2023-2024 annual report of the Information and Privacy Commissioner was tabled in the Legislative Assembly on May 23, 2024. The Standing Committee on Oversight of Government Operations and Public Accounts held a televised hearing on the 2023-2024 Public Accounts on May 1, 2025.

The standing committee's hearing was held in the Chamber of the Legislative Assembly and was televised live across the territory. The hearing was open to the public and news media to observe from the Visitors' Gallery, and was livestreamed on the Legislative Assembly's website. The transcript from the standing committee's hearing is available on the Legislative Assembly's website.

Witnesses appearing before the standing committee included the Information and Privacy Commissioner and a number of Government of Nunavut officials representing the Department of Executive and Intergovernmental Affairs, the Department of Health, the Department of Human Resources, the Department of Justice and the Department of Transportation and Infrastructure Nunavut. The standing committee notes its appreciation to the witnesses.



Observations and Recommendations Directed to the Government of Nunavut

Issue: **Annual Reports on the Administration of the *Access to Information and Protection of Privacy Act***

The Government of Nunavut's Department of Executive and Intergovernmental Affairs has overarching responsibility for the government's administration of the *Access to Information and Protection of Privacy Act* and related regulations and policies (the *Access to Information and Protection of Privacy Policy*, the *Privacy Breach Policy* and the *Privacy Impact Assessment Policy*).

The government's 2019-2020 annual report on the administration of the *Access to Information and Protection of Privacy Act* was tabled in the Legislative Assembly on March 16, 2021. The 2020-2021 to 2022-2023 consolidated annual report was tabled in the Legislative Assembly on May 30, 2024. The 2023-2024 annual report was tabled in the Legislative Assembly on November 6, 2024. The 2024-2025 annual report has not yet been tabled.

The standing committee emphasizes the importance of timely tabling of annual reports to the Legislative Assembly.

Standing Committee Recommendation #1:

The standing committee recommends that the Government of Nunavut's 2024-2025 annual report on the administration of the *Access to Information and Protection of Privacy Act* be tabled in the Legislative Assembly at the earliest practicable opportunity.

The standing committee further recommends that the Government of Nunavut introduce amendments to the *Access to Information and Protection of Privacy Act* to provide for a statutory requirement for the Minister responsible for the Act to table, within six months after the end of each fiscal year, an annual report in the Legislative Assembly on the administration of the legislation.

Issue: Capacity-Building and Centralization

Significant attention was paid during the standing committee's televised hearings of September 26-27, 2022; April 19-20, 2024; and April 24-25, 2025, to the issues of capacity and centralization.

In his 2021-2022 annual report to the Legislative Assembly, the Information and Privacy Commissioner indicated that "there are too many vacancies, too much turnover, not enough training and little or no management support" with respect to the government's Access to Information and Protection of Privacy Coordinators.

In his 2022-2023 annual report to the Legislative Assembly, the Information and Privacy Commissioner indicated that "capacity issues inside the Government of Nunavut are killing access to information and protection of privacy."

In his 2023-2024 annual report to the Legislative Assembly, the Information and Privacy Commissioner indicated that it is "still true" that "capacity issues inside the Government of Nunavut are killing access to information and protection of privacy."

In his opening statement to the standing committee of April 24, 2025, the Information and Privacy Commissioner indicated that:

"Access and privacy law can be complicated, and some departments have really struggled to follow the law. There is also a lot of turnover in staff and a lot of vacancies. The pay was not high enough to attract people or to keep people and there was often no housing available, so people would apply for other jobs where housing was available. That was the main reason that progress on access and privacy was so painfully slow. You could find someone and train them, and then in a couple of months they would be gone, and the cycle would just repeat itself. To deal with these issues, the current government established a larger central office to provide support on access and privacy ... the reason why I say this the biggest and most important change in my time here is that having a central office with specialized staff means the Government of Nunavut can respond better and fast to access and privacy files. It is still early, but I can already see the difference. In short, Members, that central office is lifting everybody up. And that is a very good thing."

The standing committee continues to recognize that the government continues to face a number of significant capacity challenges in filling critical positions, such as health care workers.

On August 12, 2022, the Government of Nunavut issued *Request for Proposals 2022-52: Standing Offer Agreement - Privacy and Information Management-Specific Training and Consulting Services*. The Request for Proposals closed on September 16, 2022.

The annual budget of the Department of Executive and Intergovernmental Affairs' Access to Information and Protection of Privacy Office has increased by over 135% from \$293,000 in the 2022-2023 fiscal year to \$697,000 in the 2025-2026 fiscal year. The Department of Executive and Intergovernmental Affairs' 2024-2025 main estimates indicated that the number of positions in its Access to Information and Protection of Privacy Office was projected to increase from 2.0 PYs in the 2022-2023 fiscal year to 5.0 PYs in the 2025-2026 fiscal year.

The department's current business plan indicates that the territorial Access to Information and Protection of Privacy Office is "updating its training presentations and material and intends to use Fusion Cloud's learning module to make this training available to employees across the Government of Nunavut, including targeting training to new staff as part of onboarding."

The department's current business plan also indicates that the territorial Access to Information and Protection of Privacy Office is "reformatting and updating key forms that the public service uses in privacy impact assessments and privacy breaches, so they are easier to use and better address mandatory obligations under the Act."

The department's current business plan also indicates that the territorial Access to Information and Protection of Privacy Office is "looking ahead at how it can use Fusion Cloud to allow the public to submit Access to Information and Protection of Privacy requests through a public-facing portal. As this is not part of the initial Enterprise Resource Planning project, Executive and Intergovernmental Affairs has started to explore what it would require to implement this type of module."

Standing Committee Recommendation #2:

The standing committee recommends that the Government of Nunavut's response to this report provide a detailed update on the status of the Access to Information and Protection of Privacy-related training and modernization initiatives that are referenced on pages 6-7 of the 2025-2026 business plan of the Department of Executive and Intergovernmental Affairs.

The standing committee further recommends that the Government of Nunavut's response to this report provide a detailed description of work performed during the 2023-2024 and 2024-2025 fiscal years by entities under the terms of *Request for Proposals 2022-52: Standing Offer Agreement - Privacy and Information Management-Specific Training and Consulting Services*.

Issue: Sunsetted Policies

The Government of Nunavut's Department of Executive and Intergovernmental Affairs administers the *Access to Information and Protection of Privacy Policy*. The policy was most recently revised in October of 2019 and sunsetted in October of 2024.

The Government of Nunavut's Department of Executive and Intergovernmental Affairs administers the *Privacy Breach Policy*. The policy was most recently revised in October of 2019 and sunsetted in October of 2024.

The Government of Nunavut's Department of Executive and Intergovernmental Affairs administers the *Privacy Impact Assessment Policy*. The policy was most recently revised in October of 2019 and sunsetted in October of 2024.

Standing Committee Recommendation #3:

The standing committee recommends that the Government of Nunavut's response to this report provide a detailed update on the status of its reviews of the *Access to Information and Protection of Privacy Policy*, the *Privacy Breach Policy* and the *Privacy Impact Assessment Policy*.

Issue: Privacy Impact Assessments

In 2017, the Legislative Assembly passed a number of amendments to the *Access to Information and Protection and Privacy Act*, including the addition of new provisions concerning privacy impact assessments.

The statute defines a "privacy impact assessment" to mean "an assessment that is conducted by a public body as defined in section 2, but not including a municipality, to determine if a current or proposed program or service meets or will meet the requirements of Part 2 of this Act."

Section 42.1 of the statute provides that:

Privacy impact assessment

42.1. (1) A minister shall, during the development of a program or service by a public body or the redesign of an existing program or service by a public body, submit to the Minister responsible for this Act

- (a) a privacy impact assessment for the Minister's review and comment; or
- (b) the results of a preliminary assessment showing that a privacy impact assessment of the program or service is not required.

Preliminary assessment

(2) A minister shall conduct a preliminary assessment and, where required, a privacy impact assessment in accordance with the directions of the Minister responsible for this Act.

Municipality not included

(3) A municipality is not a public body for the purposes of subsection (1).

Standing Committee Recommendation #4:

The standing committee recommends that the Government of Nunavut's response to this report include detailed descriptions of the findings of each privacy impact assessment and preliminary assessment undertaken under section 42.1 of the *Access to Information and Protection of Privacy Act* between April 1, 2024 and March 31, 2025, and that these descriptions detail the extent to which the Information and Privacy Commissioner was consulted in their preparation.

Issue: Non-Disclosure and Confidentiality Agreements

Significant attention was paid during the standing committee's televised hearings of September 26-27, 2022; April 19-20, 2024; and April 24-25, 2025, to the subject of non-disclosure and confidentiality agreements.

In his testimony to the standing committee of September 27, 2022, the Information and Privacy Commissioner stated that:

"The answer to your question is that, in my opinion as your Information and Privacy Commissioner, and as a lawyer of more than 30 years' experience, the information law prevails over non-disclosure agreements, especially in the government context, because it is the people's money. If there's a non-disclosure agreement entered into by the Government of Nunavut, it means that there is some aspect of the public interest at play, and although the issue has not come before me, if somebody applied to see an agreement and the government said, 'No, we're not giving it to you because there is a non-disclosure clause in the agreement,' I'm very likely to say that that is legally wrong and the agreement should be disclosed. To put it in one sentence, Member, I do not believe that governments should enter into non-disclosure agreements and, if they do, it is very much subject to the information and privacy law."

In his testimony to the standing committee of April 19, 2024, the Department of Justice's witness stated that:

"To get to your second part about out-of-court settlements, sometimes confidentiality agreements are part of those settlements. It is usually protective of the personal information of individuals and sometimes to protect the specific details of a financial settlement. As the [Information and] Privacy Commissioner has said before, and we certainly agree, the dollar value that the Government of Nunavut spends is your business and it's the public's business, and that is something that we would disclose. It's not something that would be generally under the cloak of a confidentiality undertaking in a settlement, unless the court ordered something different.

The Government of Nunavut's response to the standing committee's *Report on the Review of the 2020-2021 and 2022-2023 Annual Reports of the Information and Privacy Commissioner of Nunavut* indicated that:

"Non-disclosure agreements are typically entered into with companies at the negotiation stage of directly negotiated contracts. This is particularly the case when the contracting partner will dis-close intellectual or business information to the Government of Nunavut for the purpose of the negotiations. This is distinguishable from confidentiality agreements, which form part of almost all settlement agreements entered into by the Government of Nunavut. The

Government of Nunavut does not ask complainants who allege sexual or other harassment to sign non-disclosure agreements. While a limited list with some information was provided as part of our last standing committee appearance, given the nature of these agreements and our legal obligations, the Government of Nunavut has examined the situation and has decided to not continue to provide non-disclosure agreement data, as this could constitute a breach of those same agreements. However, we can confirm that the number of non-disclosure agreements currently binding on the Government of Nunavut is quite low.”

In his testimony to the standing committee of April 25, 2025, the Information and Privacy Commissioner stated that:

“... if the government’s position is that they will not talk about non-disclosure agreements or they will not give statistics because even giving statistics might violate the non-disclosure agreements ... that is not a reasonable position.”

In his testimony to the standing committee of April 25, 2025, the Government of Nunavut’s witness stated that:

“... there’s aspects of the settlement, particularly the amount which is non-disclosable. As well, as there’s a difference between a settlement and a release. In some situations, individuals will receive payment, funds, in order to release the government from their claim, and those would be subject to non-disclosure, but those are different than a settlement.”

Standing Committee Recommendation #5:

The standing committee recommends that the Government of Nunavut's response to this report include a detailed list of non-disclosure, confidentiality and settlement agreements entered into between the Government of Nunavut and other entities and individuals between April 1, 2022, and March 31, 2025.

The standing committee further recommends that the Government of Nunavut's response to this report disclose the aggregate amount of public funds expended from the Consolidated Revenue Fund during the 2023-2024 fiscal year in respect to matters described in Note 24(b) ("Litigation") of the 2023-2024 *Public Accounts of Nunavut*.

The standing committee further recommends that the Government of Nunavut's response to this report disclose the aggregate amount of public funds expended from the Consolidated Revenue Fund during the 2023-2024 fiscal year in respect to matters arising from settlement agreements entered into between the Government of Nunavut and other entities and individuals.

The standing committee further recommends that the Government of Nunavut's response to this report describes, in detail, its policies, practices and procedures regarding the process for entering into settlement and/or release and/or non-disclosure agreements in respect to matters arising in relation to *Human Resources Manual Directive 209: Internal Disclosure of Wrongdoing* and *Human Resources Manual Directive 1010: Respectful and Harassment-Free Workplace*.

Issue: Public Sector Salary Disclosure

In 2017, the Legislative Assembly passed a number of amendments to the *Access to Information and Protection and Privacy Act*, including the addition of new provisions to allow, through regulation, the disclosure of remuneration of prescribed classes of public employees. However, new regulations to give effect to these changes have not yet been passed.

The standing committee notes that section 36 of the *Legislative Assembly and Executive Council Act* provides that:

Annual report by Speaker

36. (1) The Speaker shall, during each fiscal year, cause a report to be laid before the Legislative Assembly

(a) setting out any policies made under subsection 33.1(1) in the previous fiscal year; and

(b) showing the amounts paid by the Legislative Assembly by way of indemnity, allowance, expense or benefit during the previous fiscal year to each person who had been a member during that previous fiscal year, other than those amounts paid pursuant to a policy made under subsection 33.1(2).

Annual report by Premier

(2) The Premier shall, during each fiscal year, cause a report to be laid before the Legislative Assembly

(a) setting out any policies made under subsection 33.1(2) in the previous fiscal year; and

(b) showing the amounts paid pursuant to a policy made under subsection 33.1(2), by way of allowance, expense or benefit, during the previous fiscal year to each person who had been a member of the Executive Council during that fiscal year.

Combined report

(3) For further clarity, the information required to be reported under this section may be combined into one report.

The Government of Nunavut's response to the standing committee's *Report on the Review of the 2022-2023 Annual Report of the Information and Privacy Commissioner* indicated that:

"There have been concerns raised following coming into force of this section of the *Access to Information and Protection of Privacy Act* regarding the impact salary disclosure of public sector employees would have on Inuit employees, particularly in smaller communities."

On July 12, 2024, the Department of Human Resources issued an announcement indicating that:

“[The department] would like to inform Government of Nunavut employees that those employees who are in positions where the starting base salary is more than \$100,000 will have their name, position title and salary range dated back to 2018, released to a media outlet. Although this specific disclosure is the result of an access to information request, the Government of Nunavut is considering options for annual disclosure of this information. This information may be disclosed to the public in the near future. Please note that only base salary ranges and the employer cost of health and dental benefits will be provided, and not specific salaries.”

The standing committee supports enhanced levels of public disclosure of remuneration for Government of Nunavut employees in the executive and senior management occupational categories.

Standing Committee Recommendation #6:

The standing committee recommends that the Government of Nunavut's response to this report provide a detailed update on the current status of the development of regulations under sections 73(l.1) and (l.2) of the *Access to Information and Protection of Privacy Act* in respect to the disclosure of remuneration of prescribed classes of public employees.

Issue: Information-Sharing Agreements

A significant number of territorial statutes allow for the government to enter into information-sharing agreements with other entities.

Standing Committee Recommendation #7:

The standing committee recommends that the Government of Nunavut's response to this report provide a detailed description of each information-sharing agreement entered into by the Government of Nunavut under the authority of a territorial statute between April 1, 2024 and March 31, 2025, and that these descriptions indicate the extent to which the Information and Privacy Commissioner was consulted in their preparation.

Issue: *Police Act*

Nunavut's new *Police Act* was passed by the 5th Legislative Assembly and received Assent on June 8, 2021. It is not yet in force. The legislation provides, in part, that:

Agreement - contracted investigative body

6. (1) The Minister may, from time to time, on behalf of the Government of Nunavut, enter into an agreement with an independent investigative body, or with its government, to authorize the independent investigative body to be a contracted investigative body for the purposes of this Part.

Agreement - contracted police force

(2) The Minister may, from time to time, on behalf of the Government of Nunavut, enter into an agreement with a police force in Canada, or with its government, municipality or other authority, to authorize the police force to be a contracted police force for the purposes of this Part.

These provisions concern investigations into serious incidents occurring within the meaning of the federal *Royal Canadian Mounted Police Act*.

In his 2021-2022 annual report to the Legislative Assembly, the Information and Privacy Commissioner indicated that his office had not yet been consulted by the Department of Justice concerning proposed agreements between the Government of Nunavut and independent investigative bodies and other entities.

In his testimony to the standing committee of April 24, 2025, the Information and Privacy Commissioner stated that:

"I am pleased to say that last month I was consulted on the topic that was promised by the Minister of Justice back in 2021."

The Government of Nunavut's response to the standing committee's *Report on the Review of the 2022-2023 Annual Report of the Information and Privacy Commissioner of Nunavut* indicated that:

"The government remains committed to engaging with the Information and Privacy Commissioner about privacy matters as they relate to agreements with contracted investigative bodies and contracted police forces under the new *Police Act*. The Department of Justice is currently negotiating a draft Memorandum of Understanding with an investigative body for the investigation of serious incidents in Nunavut. Once the initial draft of the Memorandum of Understanding is prepared and there is sufficient substantive content for the Information and Privacy Commissioner to review, the Department will engage with the Information and Privacy Commissioner for feedback and recommendations."

The response also indicated that:

“The government continues to work toward bringing the *Police Act* into force and intends to do so within the life of this government. The Department of Justice has made significant progress on the development of the necessary regulations and plans to complete stakeholder engagement shortly and begin drafting later in the fall of 2024. The department anticipates completing the regulations and taking the steps to bring the *Police Act* into force by spring of 2025.”

The standing committee notes the importance of ensuring that agreements entered into between the Government of Nunavut and independent investigative bodies and other entities include disclosure requirements that are comparable to those which are in place in other Canadian jurisdictions in respect to the public reporting of investigative findings.

Standing Committee Recommendation #8:

The standing committee recommends that the Government of Nunavut’s response to this report provide a detailed update on the status of consultations with the Office of the Information and Privacy Commissioner regarding the entering into of agreements with contracted investigative bodies and contracted police forces under the new *Police Act*.

The standing committee further recommends that the Government of Nunavut’s response to this report provide a detailed timeline for the coming into force of the new *Police Act*.

Issue: Prosecutions under Section 59 of the *Access to Information and Protection of Privacy Act*

In his 2022-2023 annual report to the Legislative Assembly, the Information and Privacy Commissioner indicated that:

“Section 59 of the *Access to Information and Protection of Privacy Act* creates an offence, punishable on summary conviction, for anyone who knowingly breaches privacy or who wilfully interferes with the work of this office. There has never been a prosecution under this section.

In this fiscal year, there was one file for which prosecution should at least have been considered. It was a privacy breach case. Unfortunately, both the Royal Canadian Mounted Police and the Public Prosecution Service of Canada are doubtful that investigating (in the case of the Royal Canadian Mounted Police) or prosecuting (in the case of the Public Prosecution Service of Canada) is within their mandate. Investigation and prosecution of territorial offences is normally done by the Government of Nunavut’s Department of Justice. The problem is that an *Access to Information and Protection of Privacy Act* offence will almost always involve someone employed by or contracted to the GN. The Government of Nunavut’s Department of Justice will usually be in a conflict of interest.

In short, it appears that there is nobody to investigate or prosecute an *Access to Information and Protection of Privacy Act* offence. Even if there were, the maximum fine (\$5,000) is hardly worth the effort. Section 59, as currently written, is an empty threat. This is not a desirable situation. I bring it to the attention of the Legislative Assembly because a legislative response may be required.”

In its formal response to the Information and Privacy Commissioner’s *Review Report* 23-239, the Government of Nunavut indicated that it “did not refer this matter for prosecution as it was uncovered well after the expiry of the six-month limitation period for the prosecution of territorial offences as specified in section 3 of the *Summary Conviction Procedures Act*. In light of the challenges posed by the six-month limitation, the Government of Nunavut would be open to discussing with the [Information and Privacy] Commissioner the possibility of a limitation period or an administrative penalty regime specific to offences under the *Access to Information and Protection of Privacy Act*.”

The Government of Nunavut’s response to the standing committee’s *Report on the Review of the 2022-2023 Annual Report of the Information and Privacy Commissioner of Nunavut* indicated that:

“The Government of Nunavut ... is considering options to address this issue.”

Standing Committee Recommendation #9:

The standing committee recommends that the Government of Nunavut's response to this report provide a detailed update on the status of developing amendments to address the issue of prosecutions under section 59 of the *Access to Information and Protection of Privacy Act*.

Issue: Clare's Law and Missing Persons Legislation

During his September 2022 televised appearance before the standing committee, the Information and Privacy Commissioner confirmed that he had provided formal written input in July of 2021 to the Department of Justice concerning the development of a "*Clare's Law*" for Nunavut, the purpose of which is to address the issue of intimate partner violence. This submission was tabled in the Legislative Assembly by an individual Member on September 14, 2021, as part of an exchange of correspondence with the Information and Privacy Commissioner.

Information published by the Government of the Northwest Territories indicates that:

"In the Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls, Call for Justice Number 5.8 calls upon provinces and territories to adopt legislation related to missing persons.

As of June 2023, missing persons legislation has been enacted in Saskatchewan, Alberta, Nova Scotia, New Brunswick, Manitoba, British Columbia, Newfoundland, and Ontario. Yukon's *Missing Persons Act* received assent in 2017 but is not yet in force.

Time is of the essence when a person goes missing. When police begin a missing person investigation, they often have no reason to suspect that a crime has been committed and therefore cannot obtain a production order under the Criminal Code or otherwise compel parties to release personal information about the missing person. Legislation provides mechanisms so police can access information more quickly and efficiently when conducting a missing person investigation. Most legislation in Canada related to missing persons provides for court orders that allow police to access records related to, and to enter premises to search for, a missing person. In many jurisdictions, legislation also allows police in certain situations to make emergency demands for records without a court order, for example, if it is suspected that records may be destroyed or that a missing person may be harmed during the time that would be required to obtain a court order.

When an investigation spans more than one jurisdiction, having similar legislation across provinces and territories can help police work together more effectively to locate a missing person."

In his testimony to the standing committee of April 19, 2024, the Information and Privacy Commissioner stated that:

"What I can say is how it relates to the existing access and privacy law, and the sort of things that Members would want to be thinking about if such a piece of legislation is tabled in this House for consideration.

What the law does essentially is it opens up one more avenue for the police to obtain information that they do not currently have because, in our system of justice, we do not let the police go out and get information if no crime is suspected or if there's no actual crime. This would say, well, under certain circumstances, not all circumstances but under certain circumstances, they could go out even if there's no evidence of a crime and obtain information that they can't already get.

Now, under the existing law in Nunavut, it would not be allowed and that's why a piece of legislation is required. If such a piece of legislation were adopted, then it would fit in with the privacy law because the privacy law says, among other things, that it is okay to disclose information as long as there is a law that says that it's okay. If this House were to pass that legislation, it would fit in with the existing privacy law."

In his testimony to the standing committee of April 19, 2024, a Department of Justice witness stated that "... it is still on the legislative priority list for the department and it is still being looked at by colleagues in Justice policy."

The Government of Nunavut's response to the standing committee's *Report on the Review of the 2022-2023 Annual Report of the Information and Privacy Commissioner of Nunavut* indicated that:

"The Department of Justice continues to make progress reviewing how *Clare's Law* is designed and operates in other Canadian jurisdictions, and assessing whether a similar law would be an effective tool for helping Nunavummiut at risk. We are undertaking the necessary policy work and have begun engaging with key stakeholders, like the Royal Canadian Mounted Police, to better understand how *Clare's Law* could be adapted for Nunavut's unique needs.

The Department of Justice intends to bring forward amendments to the *Family Abuse Intervention Act* (FAIA) in the winter of 2025. At one point, it was thought that a Nunavut version of *Clare's Law* could possibly be part of the FAIA amendment package. However, upon further consideration and policy review, it has become clear that a *Clare's Law* for Nunavut would need to be a standalone piece of legislation.

The conventional *Clare's Law* in southern Canada and the United Kingdom is restricted to sharing any history of intimate partner violence information with a current or potential intimate partner. Members of the Legislative Assembly have asked the Department of Justice to consider a made in Nunavut *Clare's Law*, which would have an expanded scope, covering the disclosure of information pertaining to child abuse, elder abuse, and other violent offenses. While the Department understands the rationale behind an expanded *Clare's Law* model, this has resulted in additional engagement, legal, and policy work to be done.

At this time, it is uncertain when this review will be completed due to the expanded scope and consideration of Nunavut's unique circumstances. We recognize the importance of this work, but much remains to be done, and we currently do not have a specific timeline for its completion."

The response also indicated that:

"The Department of Justice has been monitoring developments on missing persons laws in other jurisdictions. The department does not have immediate plans to propose similar legislation for Nunavut; however, we will continue to examine this issue taking into account: the unique context of our territory, the number and nature of cases where persons go missing in Nunavut or cases of Nunavummiut who go missing in other provinces and territories, and the need to balance police investigative powers with privacy and the protection of personal information, among other considerations."

In his testimony to the standing committee of April 25, 2025, a Department of Justice witness stated that:

"The status of the *Clare's Law* review, the department has completed a detailed review of all Canadian legislation that is in place. Right now there are five acts that have been passed, three of which are in force. Two of those are of particular sort of interest, I guess, to Nunavut that we've been reviewing as a department. The first one is Manitoba, and that relates to the scope of the requests, the information that can be requested, because it includes, in addition to intimate partner violence, potential violence against children as this House has talked about; and also Newfoundland and Labrador because it's the smallest jurisdiction that currently has its Act in force as well right now. And looking more at those two models. Those are also the jurisdictions we've spent some time engaging directly with to get some feedback on.

Again, Manitoba is one of the ones that is not in force, but talking about some of the process and thinking that went into the scope of, I said, the information that can be requested. And then Newfoundland and Labrador, because of the regime is something that we think might suit a smaller jurisdiction like Nunavut as well. Just a little bit of background. For instance, Alberta and Saskatchewan are two of the other jurisdictions that have their Act in force. They're quite larger. They have a separate body, separate entity, a committee of sorts, that reviews applications for information that individuals wanting to get this disclosure from the police to review that.

In Newfoundland and Labrador, where they also have the RCMP as well, too, of course, they have the Newfoundland Constabulary ...the two larger jurisdictions, though, Alberta and Saskatchewan, they have a committee, and it requires sort of a separate administration and so forth, whereas Newfoundland and Labrador, their policing entities actually take care of the review and risk assessment

analyses. So, again, no decisions have been made, but we're engaging with these jurisdictions specifically on their laws at this time.

Also, what we've done is because the requests for information, it's to access information held by the police, which relates to Manitoba, their Act passed in 2022. They're still working on their regulations. I saw a notice earlier, it was released earlier this month saying they're targeting the fall of 2025 for their regulations and then with the plan of coming into force after those regulations are made. And that would be the first jurisdiction, again, that would specifically allow for not just information relating to intimate partner violence, but also offences against a child, like child abuse as well. So we're very interested to see how that progresses as well too.

So based on, again, our review of the information that we've gathered, assessing the issues as I just mentioned about the scope to include child abuse, also some of the privacy matters, we're here at a privacy hearing, so issues related to the nature of what can and can't be disclosed, but also how that information is disclosed."

Following their October 2024 annual meeting, Canada's federal, provincial and territorial privacy commissioners and ombuds issued a joint resolution concerning the subject of "responsible information-sharing in situations involving intimate partner violence." The resolution indicated, in part, that:

"... intimate partner violence (IPV) is a pervasive problem in our society, affecting Canadians from coast to coast to coast, in urban, rural, and remote communities. IPV refers to a form of gender-based violence that primarily harms women and gender-diverse individuals and includes multiple forms of harm caused by a current or former intimate partner ... some Canadian jurisdictions have taken the additional step of adopting a *Clare's Law* scheme, which generally enables a police service to disclose certain risk-related personal information about an individual to their current or former intimate partner to support informed decision making about their safety and the relationship ...

... against this legal and policy backdrop, Canada's federal, provincial, and territorial Privacy Commissioners and Ombuds with responsibility for privacy oversight (FPT Commissioners) collectively affirm that Canada's privacy laws generally permit the disclosure of personal information if there is a risk of serious harm to health or safety ...

... in particular, we call on the federal, provincial, and territorial governments to work with their respective FPT Commissioner to:

1. Ensure organizations develop privacy policies around the permissible disclosure of personal information in situations involving risks to life, health, or safety;

2. Identify and direct the appropriate organizations to conduct a public education campaign on permissible disclosures of personal information in situations impacting risks to life, health, or safety;
3. Develop culturally sensitive and trauma-informed tools and guidance to support organizations delivering services to marginalized, racialized, or vulnerable groups;
4. Encourage the proactive disclosure of IPV-related data, including relevant statistics, trends, and race-based data and analyses to shed light on the importance of the issue, and help improve future strategies for IPV prevention. Where there is a reasonable risk that releasing such data may, alone or in combination with other data, identify specific individuals, consider whether the public interest in disclosing such information outweighs any invasion of privacy that could result from the disclosure.”

Standing Committee Recommendation #10:

The standing committee recommends that the Government of Nunavut’s response to this report include copies of the Department of Justice’s interjurisdictional reviews of *Clare’s Law* legislation and missing persons legislation.

The standing committee recommends that the Government of Nunavut’s response to this report include a detailed update on the status of its work to address the joint resolution adopted in October of 2024 by Canada’s federal, provincial and territorial privacy commissioners and ombuds concerning responsible information-sharing in situations involving intimate partner violence.

Issue: Health-Specific Privacy Issues and Related Matters

Significant attention was paid during the standing committee's televised hearings of September 26-27, 2022; April 19-20, 2024; and April 24-25, 2025, to health-specific privacy issues.

The standing committee also notes that the Government of Nunavut's *Information Sharing Agreement with Nunavut Tunngavik Incorporated on Tuberculosis Data* was tabled in the Legislative Assembly on February 22, 2024.

The Information and Privacy Commissioner's 2022-2023 annual report indicated that:

"The *Access to Information and Protection of Privacy Act* is inadequate to deal with information and privacy in the health system. Almost every other Canadian jurisdiction has health-specific legislation. There is no reason that Nunavut should be so far behind."

The Information and Privacy Commissioner's 2023-2024 annual report indicated that:

"There is still no sign of health-specific privacy legislation. Nunavut is one of only two jurisdictions in Canada without a privacy law for the health-care sector (British Columbia is the other)."

During the Legislative Assembly's recent sitting of March 6, 2025, the Minister of Health announced that:

"... internal consultations within the Department of Health began in December 2022 and continued through April 2023. These discussions have provided crucial insights into how health information is currently managed and how it can be improved. Consultations with other Government of Nunavut departments are being conducted alongside the public consultation process. The external consultation process officially began in May 2024. Our approach included an online survey, which received 138 responses over 4 months.

Additionally, community consultations were held in Arviat, Iqaluit, Rankin Inlet, Kugluktuk, and Qikiqtarjuaq. We plan to return to Whale Cove and Cambridge Bay this March after our initial consultations were canceled. The next major step is for work to begin on drafting a Legislative Proposal. However, given the complexity of this work, the new legislation will not be introduced within the current government's mandate. Nonetheless, this initiative remains a priority for Health and will lay the foundation for improved protection and accessibility of Nunavummiut's personal health information."

Subsection 67(c) of the *Access to Information and Protection of Privacy Act* provides that the Information and Privacy Commissioner may “offer comment on the implications for privacy protection of proposed legislative schemes or government programs.”

Standing Committee Recommendation #11:

The standing committee recommends that the Government of Nunavut’s response to this report include a detailed update on the current status of the development of health-specific privacy legislation, and that this update include a summary of the responses to the department’s online survey and feedback provided at its community consultations.

The standing committee further recommends that the Government of Nunavut’s response to this report include a detailed update on consultations held to date with the Office of the Information and Privacy Commissioner regarding the development of health-specific privacy legislation.

The standing committee further recommends that the Government of Nunavut’s response to this report include a detailed update on the current status of the administration of the Government of Nunavut’s *Information Sharing Agreement with Nunavut Tunngavik Incorporated on Tuberculosis Data*, and that this update include a description of what privacy training, if any, has been offered to, and taken by, employees of Nunavut Tunngavik Incorporated in respect the organization’s responsibilities and obligations under the *Agreement*.

Issue: Application of the *Access to Information and Protection of Privacy Act* to Municipalities, District Education Authorities and Alcohol Education Committees

In April of 2015, the *Access to Information and Protection and Privacy Regulations* were amended to designate housing authorities and housing associations as public bodies. However, District Education Authorities (DEAs) are not yet covered by the legislation.

In 2017, the Legislative Assembly passed a number of amendments to the *Access to Information and Protection and Privacy Act*, including the addition of new provisions to allow, through regulation, for the designation of municipalities as public bodies. However, new regulations to give effect to these changes have not yet been passed.

On November 9, 2021, the Iqaluit City Council passed a formal motion directing the municipal administration to “work with the Government of Nunavut and the Office of the Information and Privacy Commissioner of Nunavut on funding, training and file management systems, with the goal of coming under the *Access to Information and Protection of Privacy Act* by January 2023.”

The Information and Privacy Commissioner’s 2022-2023 annual report indicated that:

“In my last annual report, I wrote that access to information for municipalities appeared to be back on the agenda. One year later, municipal access to information and protection of privacy is off the agenda and shows no signs of being revived. At the Standing Committee on Oversight of Government Operations and Public Account’s [televised] hearing in September 2022, the Deputy Minister of Executive and Intergovernmental Affairs indicated that municipal access to information and protection of privacy is not being pursued by this government. The City of Iqaluit, which adopted a motion on November 9, 2021, to explore the possibility of coming under the *Access to Information and Protection of Privacy Act*, has taken no further steps towards coming under the *Access to Information and Protection of Privacy Act*.”

The Information and Privacy Commissioner’s 2023-2024 annual report indicated that:

“[One of my office’s priorities is to] gradually increase the capacity of the office so that it can handle the increase in work that will come with health-specific information legislation, and also with the extension of the *Access to Information and Protection of Privacy Act* to Nunavut’s municipalities.”

The Government of Nunavut's response to the standing committee's *Report on the Review of the 2022-2023 Annual Report of the Information and Privacy Commissioner of Nunavut* indicated that:

"Following the appearance before the standing committee, on June 11, 2024, the Department of Community and Government Services, engaged the Nunavut Association of Municipalities (NAM) requesting information pertaining to their current position on the development of regulations under section 73(a) of the *Access to Information and Protection of Privacy Act* considering designation of municipalities as public bodies.

The response, received on June 28, 2024, indicated a number of barriers that prevents their support of municipalities being designated as public bodies under the *Access to Information and Protection of Privacy Act*. The following concerns were raised:

- Capacity of municipal administrators who are already overstretched with a multitude of activities related to critical municipal services and a limited budget;
- Challenges related to cybersecurity and data infrastructure;
- Unreliable technology infrastructure;
- Privacy concerns related to small community sizes; and,
- Vexatious and malicious requests for information.

Further to these concerns, the Nunavut Association of Municipalities anticipated that, if compliance with the *Access to Information and Protection of Privacy Act* became mandatory, that they would need at least five years to build a system that would be compliant with the legislation. The Nunavut Association of Municipalities letter suggested that other avenues for transparency and accountability should be explored before making the *Access to Information and Protection of Privacy Act* binding on municipalities, including community meetings, local consultations and other forms of direct engagement with residents.

Given the position of the Nunavut Association of Municipalities, discussions are occurring between Departments of Executive and Intergovernmental Affairs and Community and Government Services on this file around the appropriate management of information and protection of privacy within municipalities. Issues around access to information and privacy will be included in future consultations around the *Hamlets Act* and *Cities, Towns and Villages Act*."

The Government of Nunavut's response to the standing committee's *Report on the Review of the 2022-2023 Annual Report of the Information and Privacy Commissioner of Nunavut* indicated that:

"The departments of Education and Executive and Intergovernmental Affairs are exploring the potential of incorporating District Education Authorities into the *Access to Information and Protection of Privacy Regulations*, including logistical and administrative considerations related to access to information. The Department of Education supports District Education Authorities and encourages them to follow Part 2 of the *Access to Information and Protection of Privacy Act* for protection of privacy."

The response also indicated that:

"Alcohol Education Committees could currently be designated under regulation and no amendment to the legislation would be necessary ... an Alcohol Education Committee is considered an "other public body" ... the Department of Finance will consider the standing committee's recommendation to designate Alcohol Education Committees (AECs) as a public body under the *Access to Information and Protection of Privacy Act* in conjunction with its ongoing legislative review of the *Liquor Act*."

Although the standing committee supports the principle of having federal, territorial and municipal levels of government being covered by appropriate legislative frameworks in respect to access to information and protection of privacy, it recognizes the reality of capacity challenges facing smaller entities. Consequently, it is incumbent on the government to develop clear and realistic timetables in respect to such entities as municipalities, District Education Authorities and Alcohol Education Committees.

Standing Committee Recommendation #12:

The standing committee recommends that the Government of Nunavut's response to this report include a copy of the correspondence received from the Nunavut Association of Municipalities on June 28, 2024."

The standing committee further recommends that the Government of Nunavut's response to this report provide a detailed update on the current status of the development of regulations under section 73(a) of the *Access to Information and Protection of Privacy Act* in respect to the designation of District Education Authorities as public bodies.

The standing committee further recommends that the Government of Nunavut's response to this report provide a detailed update on the current status of the review of the *Liquor Act*.

Issue: Labour Relations and the *Access to Information and Protection of Privacy Act*

Section 1104 of the Government of Nunavut's *Human Resources Manual* ("Release of Information") was last updated on April 10, 2006, over fifteen years ago.

On February 20, 2024, the Minister responsible for the *Public Service Act* announced the appointment of Nunavut's first resident Ethics Officer.

The Information and Privacy Commissioner has written in a number of his formal review reports that the *Access to Information and Protection of Privacy Act* has become a "proxy battleground for labour relations issues within the Government of Nunavut."

In his testimony to the standing committee of April 20, 2024, the Information and Privacy Commissioner stated that:

"In my first year here in Nunavut, I would say that easily the majority of the cases that I saw fit within that category. So that is why I mentioned it. I used a fancy phrase; the proxy battleground, but really all that means is people were using this law to fight each other inside the Government of Nunavut. That's really what I meant.

Now interestingly, in my second year and into my third year here in Nunavut, that kind of faded away and it was never clear to me why. Since the Department of Executive and Intergovernmental Affairs hasn't been producing any statistics for a number of years now, it hasn't been clear to me what's going on down on the ground. I only see the appeals, but there was a period when I was getting very few of that kind of thing, and it's interesting; just in the last few months it has come back again.

Since the beginning of this calendar year, 2024, I would say the majority of the new cases that I've seen have involved fights inside the Government of Nunavut. I've been hoping that they were gone forever, but that has turned out, sadly, not to be the case."

In his testimony to the standing committee of April 24, 2025, the Information and Privacy Commissioner stated that:

"Now, when access laws were created back in this the – well, in Canada anyway, it was like the early 1980s – I think the idea was that citizens should be able to know what their government is doing. The government belongs to the people, and the people should be able to know and understand what their government is doing and why. So there's this kind of image that the people who would be using the law would be citizens who want to have a window into their government.

What I've been telling Members in the time that I've been here is that's not really what the Nunavut law is being used for. Yes, it is being used for that, but the majority of cases that I see are being used by employees of the government who are requesting information about what's going on inside their own workplace. And I look at this, and I say, okay, well, if that's what's coming to me, I'll deal with that, but that's not really what the law was written for.

And so as a result, it's really difficult for the Department of Human Resources, all the other departments, honestly, and for me to know how to take this law that was written for one purpose and apply it to something that's really quite different. I mean, it works, but not really. That's one of the reasons why I say that the most difficult files in Nunavut are at the Department of Human Resources because they have a lot of people coming at them for information and trying to apply a law that just doesn't really fit.

What would be ideal, and I've said this over the past several years, is for the Government of Nunavut to reach an agreement with their unions to say when there is a human resources issue, what is it the employee can see and what is it the employee can't see. That is something that should be negotiated, and then it all becomes part of the regular grievance process. Whereas what's happening now is the grievance process is happening, and then over the side, they're doing an access to information request, and it just doesn't fit together the way that it should. So there are ways of making things better, but right now, the access-to-information system is being largely used not by citizens back in communities but by Government of Nunavut employees who are upset about something that's going on in their workplace."

In her testimony to the standing committee of April 24, 2025, the Department of Human Resources' witness stated that:

"As the [Information and Privacy] Commissioner says, it's complex dealing with these files through the *Access to Information and Protection of Privacy Act*. It's certainly challenging. We have had discussions with both unions. They're open to our suggestions, open to discuss them, but people do revert back to they do have the option under the Act, and they can go for *Access to Information and Protection of Privacy Act* at this point in time. And there are protections under the Act where they can have an external body review what we've given them.

But we have formed an internal committee to review the last couple of years of *Access to Information and Protection of Privacy Act* requests related to employee relations issues to provide, as the Commissioner suggested, an agreement with the unions for unionized employees that we can look to first before we go down this road. So just providing a list of what type of information employees are looking for, as opposed to what we normally get, which is give me every email that has my name in it, or related to me, or related to this situation, which is hundreds and hundreds of pages, which makes it really difficult to administer."

The Government of Nunavut's response to the standing committee's *Report on the Review of the 2022-2023 Annual Report of the Information and Privacy Commissioner of Nunavut* indicated that:

"To date, the Government of Nunavut has not had any discussions to revise the grievance processes to address concerns about how the current process impacts administration of the *Access to Information and Protection of Privacy Act*. The issue will be raised at the next meetings with the Nunavut Employees Union and Nunavut Teachers' Association.

The Department of Human Resources has consulted with stakeholders including; the ATIPP Coordinators Committee, Employee Relations, the Department of Finance, the Territorial ATIPP Office, and the Department of Justice, on what issues they are encountering with the current Human Resources Manual Section 1104 and what amendments may be appropriate in the updated policy. The Department of Human Resources is reviewing the feedback and is working on possible updates to this section.

Correspondence has been sent to the Ethics Officer requesting that he reach out to the Information and Privacy Commissioner to discuss areas of potential future collaboration."

Standing Committee Recommendation #13:

The standing committee recommends that the Government of Nunavut's response to this report describe, in detail, what specific discussions it has had with the Nunavut Employees Union and the Nunavut Teachers' Association concerning potential changes to the grievance process in respect to access to information and protection of privacy.

The standing committee further recommends that the Government of Nunavut's response to this report describe, in detail, the status of work to update *Human Resources Manual Section 1104 - Release of Information*.

Issue: Information Technology and Artificial Intelligence

Significant attention was paid during the standing committee's televised hearings of September 26-27, 2022; April 19-20, 2024; and April 24-25, 2025, to the issues of information technology, cybersecurity and artificial intelligence.

In his 2021-2022 annual report to the Legislative Assembly, the Information and Privacy Commissioner indicated that "we live in a world of surveillance and cyberattacks."

In his testimony to the standing committee of April 20, 2024, the Information and Privacy Commissioner stated that:

"I've been the [Information and Privacy] Commissioner here in Nunavut for three years, and during the first two years, hardly heard the words artificial intelligence at all. Now when I go to a conference or I meet with my colleagues, it's all everybody is talking about.

This technology has burst into the public in a way that I think none of us imagined and it has profound implications for the way information is handled within a government. It has profound implications for access to information and also on privacy.

My very fundamental recommendation, Member, is that the Government of Nunavut needs to get ahead of this issue. The technology is developing so fast that the Government of Nunavut is already behind. I cannot urge them enough to at least give to their employees a framework for how artificial intelligence should be used within the Government of Nunavut. First of all, in decision-making, artificial intelligence has the ability to be used to make decisions, but suddenly now the decision is not being made by a human being; it's being made by a machine. If you apply for information about how that decision was made, it's not clear at all how the access law applies to that, or whether the Government of Nunavut would even be able to explain how it made that decision. So that's the big implication on the access side.

On the privacy side, the way that artificial intelligence works is to gather an enormous amount of information, an unimaginable amount of information and analyze it so that essentially it can predict what the next word in a sentence is going to be, or should be, or usually is. That means that the models take in as much information as they can get their hands on. I think people would be shocked if they knew how much information is being taken up by these models, and that includes the information of Nunavummiut."

In his testimony to the standing committee of April 25, 2025, the Information and Privacy Commissioner stated that:

“So one of the things that I’m interested in, Member, is what’s happening inside the Government of Nunavut in terms of, like, policy development. To give an example, the Government of Ontario has issued policy guidance to the entire public service of Ontario about the ethical use of artificial intelligence, when it should be used, when it should not be used, how it should be used, and so on and so on. And I’m not aware of any public guidance having been issued by the Government of Nunavut, and I would say that because we can know for sure that it’s already being used without guidance, that we need to get that guidance out there ...

... I could go on for a long time about this, but I want to emphasize, Mr. Chair, just as I did last year that I’m not saying that artificial intelligence is a bad thing. It’s a wonderful thing. It’s happening. We all have to learn how to work with it. Especially in a government like this one, which is often short staffed, where there is a lot of turnover, there’s a real opportunity, I think, to use artificial intelligence to get better decisions faster by using artificial intelligence, but we desperately need some guidelines about how to use it properly and ethically.”

The Government of Nunavut’s response to the standing committee’s *Report on the Review of the 2022-2023 Annual Report of the Information and Privacy Commissioner of Nunavut* indicated that:

“The Department of Executive and Intergovernmental Affairs is working with Information Management/Information Technology to develop clear, easy to understand rules related to the use of artificial intelligence in Government of Nunavut workplaces. This work is ongoing and will be based on the *Access to Information and Protection of Privacy Act*, ensuring that there are reasonable protections in place so that personal information in our custody and control isn’t put at unnecessary risk.”

The response also indicated that:

“The Y-Drive migration project will require additional privacy assessments and data management standards, such as digital transformation, data classification, naming conventions, and retention policies. A new preliminary privacy impact assessment will be completed as part of this planning process.

In May 2022, as part of a pre-Privacy Impact Assessment exercise, the Government of Nunavut identified the initiative to replace existing human resources and financial systems with a cloud-based Enterprise Resource Planning (ERP) solution would require additional privacy considerations.

Following additional work, the project team determined that due to the scope of the project a single Privacy Impact Assessment would not be suitable. Undertaking a single Privacy Impact Assessment too early would not be useful as most questions would not be answerable. Undertaking a Privacy Impact Assessment too late would mean the Government of Nunavut could not learn from the assessment findings. Instead, the team took an approach of considering privacy throughout the project, focusing on the right issues of the day and building them into the design of the project and system. The project team documented and communicated this approach through a report in October 2022 and shared the plan - and the report - with the Information and Privacy Commissioner shortly afterwards.

As an example of assessing privacy in different ways along the way, in 2023 the Departments of Finance and Community and Government Services engaged outside experts to assess and advise on network access, user authentication, and identity management - all issues that relate to getting onto the system in the first place.

Separately, the Departments of Finance and Community and Government Services have engaged external lawyers who specialize in technology contract and privacy law to help ensure Government of Nunavut contracts with the vendor contain appropriate safeguards.

As the project advances, we are ready to consider privacy from a new angle. The Department of Finance has initiated discussions with another firm for another assessment - this time focused on the impacts and risks of how we have configured the system for use, and to advise on how the Government of Nunavut can use, adopt, and adapt our protocols, processes and policies to safeguard personal and corporate information contained in the Cloud.”

Standing Committee Recommendation #14:

The standing committee recommends that the Government of Nunavut's response to this report provide a detailed update on the status of work to decommission and replace the network Y-drive.

The standing committee further recommends that the Government of Nunavut's response to this report provide a detailed update on its work to "use, adopt, and adapt our protocols, processes and policies to safeguard personal and corporate information contained in the Cloud."

The standing committee further recommends that the Government of Nunavut's response to this report provide a detailed update on its work to develop "clear, easy to understand rules related to the use of artificial intelligence in Government of Nunavut workplaces."

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

Bill 48, *An Act to Amend the Access to Information and Protection of Privacy Act*, was introduced and received 1st Reading on June 6, 2017. The Bill received Assent on September 19, 2017.

Bill 59, *An Act to Amend the Access to Information and Protection of Privacy Act*, received 1st Reading during the Legislative Assembly's sitting of October 25, 2024. It was subsequently withdrawn from the Order Paper by way of a motion introduced on October 30, 2024, by the sponsor of the Bill, the Minister of Executive and Intergovernmental Affairs.

In his 2023-2024 annual report to the Legislative Assembly, the Information and Privacy Commissioner indicated that:

“Nunavut’s information and privacy law is old. It needs to be updated to match the way the way the Government of Nunavut actually works. Information technology is advancing rapidly, and artificial intelligence has burst onto the scene in ways that seem like science fiction, but our information law still talks about photocopying.”

In his opening statement to the standing committee of April 24, 2025, the Government of Nunavut’s lead witness stated that:

“In previous standing committee appearances, [the Department of] Executive and Intergovernmental Affairs committed to a comprehensive review of the [*Access to Information and Protection of Privacy Act*], and I am pleased to share that this work has begun in earnest and is currently in the information-gathering phase.

The review process and information gathering undertaken is extensive, including work such as:

- Studying best practices in other jurisdictions;
- Looking at indicators of how the Act is currently functioning in Nunavut; and
- Looking at how Inuit ideas and values related to privacy and information sharing can be incorporated throughout the *Access to Information and Protection of Privacy Act*.

This important work will continue through the summer and into the fall with the outcome of the review to be provided to the next government.”

Section 37 of the *Access to Information and Protection of Privacy Act* provides, in part, that:

Appeal of decision of head

37. (1) An applicant or a third party may appeal a decision made by a head of a public body under section 36 to the Nunavut Court of Justice.

However, the Information and Privacy Commissioner does not have the explicit authority under the legislation to appeal a decision made by a head of a public body in respect to their recommendations.

The Information and Privacy Commissioner indicated in his 2021-2022 annual report that the *Access to Information and Protection of Privacy Act* should be amended to “give the Information and Privacy Commissioner the power to order the disclosure of documents.” This recommendation was reiterated in his 2022-2023 and 2023-2024 annual reports.

In his testimony to the standing committee of September 27, 2022, the Information and Privacy Commissioner stated that:

“The whole system would work better if I had the order power, but I know that inside the government, what they’re really afraid of is what if I make a bad decision, what if I do something that they think is just stupid, what do they do? They don’t want to give me that power, to which I say, ‘But the answer is simple and, that is, that if they don’t like my order, they go to court to have it overturned.’

If I issue an order that doesn’t make a lot of sense, they just get it overturned in court. Otherwise it becomes an order of the court and then they have to obey an order of the court or the government is in contempt of court. That’s using a technical, legal word, in contempt of court. That’s what happens in other jurisdictions in Canada.

That’s what should happen here. I am very happy to have my work looked at by a judge and, if a judge says I’m wrong, that’s great. That’s what judges are for, but the system right now in my view is quite unsatisfactory where, no matter what I say, the government can just keep doing what they’re doing. That’s what I would suggest, but there has to be a combination. I should have order power and the government can take me to court ...”.

The standing committee's *Report on the Review of the 2022-2023 Annual Report of the Information and Privacy Commissioner* recommended that the Government of Nunavut:

"Introduce amendments to the *Access to Information and Protection of Privacy Act* to provide order-making power to the Information and Privacy Commissioner in respect to the office-holder's duties under Division D of Part 1 of the *Access to Information and Protection of Privacy Act* and Division D of Part 2 of the *Access to Information and Protection of Privacy Act*. The standing committee further recommended that the Government of Nunavut introduce amendments to the *Access to Information and Protection of Privacy Act* to provide the head of a public body with the authority to appeal a decision or order of the Information and Privacy Commissioner to the Nunavut Court of Justice."

Standing Committee Recommendation #15:

The standing committee recommends that the Government of Nunavut's response to this report provide a detailed update on the status of its comprehensive review of the *Access to Information and Protection of Privacy Act*.

The standing committee reiterates its previous recommendation concerning order-making power and appeals.

Observations and Recommendations Directed to the Office of the Information and Privacy Commissioner

Issue: Office of the Information and Privacy Commissioner's Annual Report

Section 68 of the *Access to Information and Protection of Privacy Act* provides that:

Annual report

68. (1) The Information and Privacy Commissioner shall, within six months after the end of each fiscal year, submit to the Speaker of the Legislative Assembly an assessment of the effectiveness of this Act and a report on the activities of the Information and Privacy Commissioner under this Act during the fiscal year, including information concerning any instances where recommendations made by the Information and Privacy Commissioner after a review have not been followed.

Laying report before Legislative Assembly

(2) The Speaker shall, at the first opportunity, lay a copy of the annual report referred to in subsection (1) before the Legislative Assembly.

The 2022-2023 annual report of the Office of the Information and Privacy Commissioner was tabled in the Legislative Assembly on May 24, 2023. The 2023-2024 annual report of the Office of the Information and Privacy Commissioner was tabled in the Legislative Assembly on May 23, 2024. Both reports were tabled in the Legislative Assembly less than 60 days after the end of the relevant fiscal year. The standing committee applauds the Information and Privacy Commissioner for the timeliness of his reporting.

The Legislative Assembly's 2024-2025 main estimates included \$400,000 in funding for the Office of the Information and Privacy Commissioner. The Legislative Assembly's 2025-2026 main estimates included \$410,000 in funding for the Office of the Information and Privacy Commissioner. The standing committee recognizes that the annual budget of the Office of the Information and Privacy Commissioner has been stable in recent years.

Standing Committee Recommendation #1:

The standing committee recommends that the Office of the Information and Privacy Commissioner's annual reports to the Legislative Assembly which are prepared and submitted under section 68 of the *Access to Information and Protection of Privacy Act* include a budget expenditure summary that is broadly comparable to those which are included in the annual reports of the Chief Electoral Officer, Languages Commissioner and Representative for Children and Youth.

Issue: Information-Sharing Agreements

The standing committee's report on the review of the 2020-2021 and 2021-2022 annual reports of the Information and Privacy Commissioner recommended that the office's response include copies of information-sharing agreements entered into with other federal, provincial and territorial information and privacy commissioners between January 11, 2021 and September 30, 2022.

The Information and Privacy Commissioner's response included a copy of the *Memorandum of Understanding Between the Office of the Privacy Commissioner of Canada and the Office of the Information and Privacy Commissioner of Nunavut* that was entered into on October 14, 2021.

The standing committee's report on the review of the 2022-2023 annual reports of the Information and Privacy Commissioner recommended that the office's response include copies of information-sharing agreements entered into with other federal, provincial and territorial information and privacy commissioners between October 1, 2022 and March 31, 2024.

The Information and Privacy Commissioner's response indicated that: "a copy of the agreement between this office and the Office of the Privacy Commissioner of Canada was attached to my 2022 response to the Committee. There have been no new agreements."

Standing Committee Recommendation #2:

The standing committee recommends that the Office of the Information and Privacy Commissioner's response to this report include copies of all information-sharing agreements entered into with other federal, provincial and territorial information and privacy commissioners between April 1, 2024 and March 31, 2025.

Issue: Devolution Data

The standing committee's report on the review of the 2022-2023 annual report of the Information and Privacy Commissioner recommended that the Government of Nunavut's response "provide a detailed update on the status of work to decommission and replace the net-work Y-drive."

The government's response indicated that:

"The Information Management and Information Technology Division (IM/IT) is working on a project to migrate departmental shared drives (Y-Drives) to the cloud, using SharePoint Online and OneDrive. The Y-Drives contain the Government of Nunavut's operational and historical data, which are essential for the Government of Nunavut's functions and services. The Y-Drives are currently stored on Government of Nunavut's servers on-premise; however, the Y-Drive migration project will enable the Government of Nunavut to store its data in the cloud, which will improve the data availability, accessibility, and security. **The Y-Drive migration project will also include the devolution data that will be transferred from the federal government, as part of the Government of Nunavut's devolution agreement.** The Y-Drive migration project is in the planning stage, with a strategy being developed by the Information Management and Information Technology Division and the stakeholders."

Standing Committee Recommendation #3:

The standing committee recommends that the Office of the Information and Privacy Commissioner proactively contacts the Office of the Privacy Commissioner of Canada and the Office of the Information Commissioner of Canada to explore appropriate channels of communication between the offices respecting the intergovernmental transfer of devolution data.

Issue: Correspondence from the Department of Transportation and Infrastructure Nunavut Concerning the Government of Nunavut Y-Drive

In his testimony to the standing committee of April 25, 2025, the Information and Privacy Commissioner stated that:

“The Government of Nunavut holds an enormous amount of information, and the issue here is where is that information. And they hold it in different places. One of them is called the Y-drive. So that’s the English letter “Y” and the word “drive”.

To put it simply, Mr. Chair, the Y-drive is like a giant warehouse, and our friends from information technology at Transportation and Infrastructure Nunavut, they set up the warehouse for everybody to use. And they say to each department, each one of you has a room inside this warehouse. But what happens inside the room is up to each individual department. So it’s like a giant warehouse full of filing cabinets, right, just picture full of filing cabinets. Picture that in your mind: A huge warehouse full of filing cabinets, and every department has their own room.

The problem that I identified in my report was that the security in that warehouse was a mess. There were far too many people who could see information that they had no business seeing. Government employees should be able to see only the information that they need to do their jobs. They shouldn’t be able to see anybody else’s personal information unless they need it to do their jobs. Some departments were very good. Some were terrible, and again using the warehouse analogy, people could wander into one of those rooms and all of the filing cabinets were wide open, and they could look at whatever they wanted. Or some were locked and others weren’t. The privacy problem was that there was far too much information that far too many people could see. Now, this is a big issue, because you can’t just snap your fingers and overnight build a different warehouse. So what the Government of Nunavut did was they committed to transitioning to a new warehouse, but that’s taking time.

Earlier this week, the Deputy Minister of Transportation and Infrastructure Nunavut sent me a detailed letter on exactly this question. I think the fact that this hearing was coming up kind of focused his mind, and so he wrote me a very detailed letter. I’ll have to check with him, Mr. Chair, to see if there was anything in it confidential, but what I would like to do to answer the Member’s question is table that letter, because it’s much more detailed and much more precise than I can be with you now.”

Standing Committee Recommendation #4:

The standing committee recommends that the Office of the Information and Privacy Commissioner’s response to this report include a copy of the correspondence that he referenced in his testimony of April 25, 2025.

Issue: Indigenous Perspectives on Privacy

Following their October 2024 annual meeting, Canada's federal, provincial and territorial information and privacy commissioners and ombuds issued a communiqué which indicated, in part, that:

“... the Chief Executive Officer of the First Nations Information Governance Centre delivered a compelling presentation on First Nations concepts of privacy and data sovereignty. The perspective he shared enriched discussions and broadened the commissioners' understanding of collective rights and data sovereignty from First Nations viewpoints, opening the door to further potential collaboration with First Nations groups to advance reconciliation.”

Standing Committee Recommendation #5:

The standing committee recommends that the Office of the Information and Privacy Commissioner's response to this report include copies of presentation materials provided at the 2021, 2022, 2023 and 2024 annual meetings of Canada's federal, provincial and territorial information and privacy commissioners and ombuds concerning the subject of Indigenous perspectives on privacy.

Looking Ahead

During the standing committee's televised hearing of April 24-25, 2025, the Information and Privacy Commissioner publicly announced that he will not be seeking reappointment following the expiry of his term of office in January of 2026.

The standing committee expresses its appreciation to the Information and Privacy Commissioner for his service, and notes the Management and Services Board's jurisdiction with respect to the recruitment and selection process for independent officers of the Legislative Assembly.

The dissolution of the 6th Legislative Assembly will occur in September of 2025, followed by the 7th territorial general election in October of 2025. It is anticipated that the first sitting of the 7th Legislative Assembly will be held in November of 2025.

Consequently, it is anticipated that a televised hearing will be held on the Office's most recent annual report during the spring of 2026.

This hearing is anticipated to allow for detailed consideration of a number of emerging issues and themes, including:

- The status of the Government of Nunavut's formal responses to the recommendations contained in the standing committee's reports on its review of the Information and Privacy Commissioner's recent annual reports;
- Recommendations for amendments to legislation and changes to the government's policies and practices, including potential amendments to section 59 of the *Access to Information and Protection of Privacy Act*, which concerns prosecutions of certain offences;
- The status of amendments that were made to the *Access to Information and Protection of Privacy Act* in September of 2017 regarding the application of the legislation to municipalities and public sector salary disclosure;
- The government's annual reporting and administration of relevant policies, including the *Access to Information and Protection of Privacy Policy*, the *Privacy Breach Policy* and the *Privacy Impact Assessment Policy*;
- Health privacy issues and the development of health-specific privacy legislation;
- Privacy issues in respect to the coming into force of the new *Police Act*;
- The use of confidentiality and non-disclosure agreements by public bodies;
- Human resources and labour relations management issues in relation to the *Access to Information and Protection of Privacy Act* and the administration of *Human Resources Manual Section 1104 - Release of Information*;
- Privacy Impact Assessments conducted by the government in respect to its programs and services;
- The use of artificial intelligence technology by public bodies in respect to their obligations under the *Access to Information and Protection of Privacy Act*;

- Information-sharing agreements between the Government of Nunavut and external entities; and
- The establishment of access to information and protection of privacy systems that can be utilized by Nunavut Inuit in respect to information in the possession of Nunavut Tunngavik Incorporated and the Qikiqtani, Kivalliq and Kitikmeot Inuit Associations.