



Annual Report
On the Administration of the
Government of Nunavut

Access to Information and Protection of Privacy Act

For the period April 1, 2007 to March 31, 2008

Submitted by Department of Executive and Intergovernmental Affairs

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**2007-2008 Annual Report
on the
Administration of the Government of Nunavut
Access to Information and Protection of Privacy Act
(ATIPP)**

The Department of Executive and Intergovernmental Affairs is pleased to submit its annual report of activity surrounding the Access to Information and Protection of Privacy Act for the year beginning April 1, 2007 and ending March 31, 2008.

Background

The Nunavut *Access to Information and Protection of Privacy Act* was duplicated from Northwest Territories Statutes in 1999. Since that time, several amendments have been made to the Act, including an update to the list of public bodies responsive to the Act and identified in the ATIPP regulations, Schedule A. This amendment, registered in June 2004, identified public bodies created since the inception of the territory and eliminated outdated public bodies associated with the Northwest Territories or no longer in existence in Nunavut.

The ATIPP Act provides members of the public with a legal right of access to information held by public bodies including government departments and offices but also provides limited exceptions to the right of access to certain records.

The Act defines parameters for collection, use and disclosure of personal information; gives individuals the right to access the personal information public bodies have about them and to request corrections to that information.

The Act also provides for an independent review of decisions made by public bodies under the Act, by the Information and Privacy Commissioner.

ATIPP Process

The Manager of Access to Information and Privacy position, located in the department of Executive and Intergovernmental Affairs, is responsible for coordination of all ATIPP functions throughout the government, including legislative issues, training, policies and procedures and inter-departmental activity.

An ATIPP coordinator is identified in each public body. The Department of Culture, Language, Elders and Youth has a dedicated position for Records Administrative Officer which also serves as the department's ATIPP Coordinator. The Department of the Environment also has a dedicated position for Records Management/ATIPP Coordinator.

Specialized ATIPP process and procedure training is provided, by an external ATIPP specialist, to coordinators and other staff who are responsible for processing ATIPP requests, administration functions and monitoring of privacy. Specific topic-related training modules are also provided on access and privacy related issues on a regular basis.

Internal ATIPP training, delivered by the ATIPP Manager, is built into staff orientation sessions and is part of records management Administrative Records Classification System training in Iqaluit and other communities. ATIPP modules can also be provided to departments and public bodies based on their specific needs. In the fiscal year 2007-2008, 478 GN staff received basic ATIPP training as well as specialized ATIPP training for Deputy Ministers, Presidents of Crown Corporations and Nunavut Arctic College and Assistant Deputy Ministers. The ATIPP Manager and Records Manager also provided specialized training sessions for senior government officials for the Departments of Education, Community Government Services, Executive and Intergovernmental Affairs and Nunavut Housing Corporation. Attached to this report is a schedule of ATIPP training provided in the 2007-2008 fiscal year.

The ATIPP manager works closely with Community and Government Services Records Management and Informatics Planning and Services staff, with the Archivist, located in CLEY and is a member of the Public Records Committee.

Access to Information and Privacy Requests

In the fiscal year 2007-2008 the Government of Nunavut recorded 104 formal ATIPP requests; 57 were requests from individuals to access personal information and 39 were requests to access general government records under the access provisions of the Act. Five breaches of privacy were dealt with under the privacy provisions of the Act. There were three requests for corrections of personal information.

Public bodies deal with informal requests for access to information on a regular basis. Ideally, an applicant will be able to access information through dialogue with the public body. Informal requests are handled within the spirit and intent of the Act but without the formal ATIPP process. Each public body processes approximately half a dozen informal ATIPP requests a month while the Manager for ATIPP tends to process that many in a week.

All public bodies are encouraged to develop policies and procedures to enable information to be disclosed without the need for a formal ATIPP application.

When a formal request is made but resolved in an informal way, the request may be cancelled in writing. In the 2007-2008 fiscal year there were 4 requests of this nature where the information was actually public information. At other times requests may be cancelled for other reasons. There were 3 requests cancelled

for other reasons – one because the request needed either more information or needed to be clarified before the public body could respond to the request and this information was not or could not be provided. Under Schedule B of the *Access to Information and Protection of Privacy Act* public bodies may charge a certain amount of fees for items such as photocopying if the photocopying charge exceeds \$150.00 calculated at .25 per page for non-personal information. Two of the requests would have cost in excess of \$3000.00 for each request due to the volume of materials. The applicant cancelled the requests when informed of the cost. One request was refused access altogether where a research grant for health information was denied.

One of the requests for correction of information could not be done but it was duly noted on the applicant's file that this request was made. No records were found in response to 14 requests. It is to be noted that 9 of these requests where records could not be found were from one individual who made a total of 37 requests to several public bodies.

In nine instances other governments consulted with the GN regarding release of GN records on file with the other government. These records were subject to an access request in the other government's jurisdiction.

Many requests are multi-departmental. One applicant may make a single request that names several departments. Each department must search, retrieve and process records applicable to the request. Approximately 14 of the requests were made to multiple departments.

There may be times when a department is not in possession of the records in question. In that case, the request may need to be transferred. Transfers occurred in approximately seven situations. There were also three requests for information which was not in the possession of the GN.

In some cases, one applicant will make multiple requests either at the same time or one after another for various types of records and from one or more departments or public bodies. In 2007-2008, there were 46 applicants who generated the 104 requests.

All requests were made in English although requests can be made and responded to in any of the four official languages.

Requests for Review

Thirty - one requests were subject to review by the Information and Privacy Commissioner. Twenty-two of these requests for review were from a single requester. Three have still to be dealt with by the Commissioner and have been carried over to the new fiscal year. One request for review was brought forward from the 2006 – 2007 fiscal year and was counted with that year's statistics.

Fees

An individual is not required to pay a fee to access personal records (about himself or herself) held by government. However, a \$25 access fee is applied to requests for access to other government records.

Applicants may be required to pay fees for services such as copying a record, shipping, preparing and handling a record for disclosure and other fees as set out under Schedule B of the ATIPP Regulations. (Note: the department or agency may choose to excuse the applicant from paying all or part of a fee if, for example, the applicant cannot afford the assessed fees.) For the first time departments have started to keep track of information sent to the applicant by registered mail and the cost to the public body. It is estimated that approximately \$350.00 was spent on this service and not charged back to the applicants.

A total of \$765 was collected in application fees and photocopying charges.

Time and Costs

Each public body is responsible for tracking time spent processing ATIPP requests and on administrative functions and providing data to the ATIPP Manager on an annual basis. The process for tracking various aspects of access to information and privacy requests was introduced in the fall of 2003. Therefore, the 2004-2005 fiscal year was the first full year of tracking. Modifications are still being developed to facilitate even more accurate reporting.

The number of hours spent on both ATIPP requests and administrative functions are approximations. Administration hours are calculated separately from the actual hours spent on ATIPP requests and include attendance at scheduled ATIPP staff meetings, training for ATIPP staff, consultation within the departments (including staff inquiries and education) and with external publics, identification and management of privacy issues as well as reporting and general maintenance of the ATIPP process.

An average hourly rate of \$35 was used in the calculation of the costs to the GN departments and public bodies.

The total hours reported for processing ATIPP requests was 1,976.50 for a cost of \$69,177.50. Reported administration costs total \$37,747.50 for 1,078.50 hours. Included in the above figures are the hours spent by Informatics (Department of Community Government Services) to retrieve electronic documents for ATIPP requests which was 104 hours for a cost of \$3,640.00 and the cost for the Records Manager (Department of Community Government Services) to retrieve documents for ATIPP requests which was \$9,187.50 at a total of 262.5 hours. These estimates are based on information reported by the

public bodies and may therefore be lower than actual costs incurred. In separate line items the cost for the ATIPP Manager (salary and training dollars) and the training cost for both community training and for the external ATIPP specialist came to a total of \$130,625.17. As part of the administration hours under the Department of Human Resources, tracking is now done on the amount of requests by other departments for personal employee information available in P2K (Personality 2000 Database for Employee Information). These requests go through the ATIPP Coordinator for the Department of Human Resources and information is only given out if the departments need it to perform their duties. A total of 20 hours was spent on the P2K requests. As a very conservative estimate it cost the departments and public bodies of the Government of Nunavut approximately \$237,550.17 in 2007-2008, to process ATIPP requests, perform administrative functions and take part in training opportunities associated with access and privacy.

Updates

The Department of Health and Social Services has put together a comprehensive Privacy Impact Assessment (PIA) in preparation for the implementation of electronic health records. This was sent to the ATIPP Commissioner on Feb.19, 2007 for her comments.

In response to the ATIPP Commissioner's recommendation in her Annual Reports that the GN conduct an inventory of all boards, agencies, and tribunals to which it appoints members and to ensure that both these organizations and the members appointed to them are aware of their obligations under the ATIPP legislation the ATIPP Manager has identified 35 arms length boards, tribunals and commissions that the GN appoints members to. Letters have been sent to all of these entities to ensure that they are aware of their responsibilities under the ATIPP Act and that they follow proper records keeping procedures. The ATIPP Manager has already received several replies asking for further training in these areas. To date training has taken place with the Utility Rates Review Council, the Nunavut Fisheries Training Consortium, the chairperson for the Liquor Licensing Board and employees with the Human Rights Tribunal, District Education Authorities and NTI with more training to be conducted in the new fiscal year. The Nunavut Medical Board of Inquiry has previously taken extensive access and privacy training and the Beverly and Qamanirjuaq Caribou Management Board have one person who has previously taken the training and are interested in the training being conducted for the rest of their members.

Bill 18 – *An Act to Amend Nunavut Statutes in Response to Section 4(2) of the Access to Information and Protection of Privacy Act* received assent in November, 2007. Section 4(2) would have come into effect on December 31, 2007 and would have made the *Access to Information and Protection of Privacy Act* prevail over any other Act where there was an inconsistency or conflict, unless another Act expressly provided that it would prevail over the ATIPP Act. In

anticipation of the coming into effect of Section 4(2) a review of all territorial statutes was carried out for the purpose of identifying conflicts between the ATIPP Act and other legislation. Where potential conflicts were identified between the ATIPP Act and other territorial Acts or regulations, these enactments were reviewed to determine whether an amendment was required to provide which Act would prevail. Bill 18 amended not only the *Access to Information and Protection of Privacy Act* but the following Acts as well: *Archives Act; Disease Registries Act; Education Act; Evidence Act; Medical Care Act; Payroll Tax Act, 1993; Qulliq Energy Corporation Act; Vital Statistics Act; Financial Administration Act; Human Rights Act; Insurance Act; Labour standards Act; Wildlife Act and the Young Offenders Act.*

Residential School Resolutions Canada – The Government of Nunavut through the Department of Education signed a Memorandum of Understanding (MOU) with the Indian Residential School Resolutions Canada to provide copies of student files for the Residential School payment. The ATIPP Coordinators from Education plus other departments worked on this huge undertaking which took approximately 600 hours and involved to date between 25-30 boxes of records. Each record had to be scanned to take out personal information that was not relevant to the residential school issue and then photocopied. This did not include the hours that Records Management spent in locating the boxes in their Records Centers. This number is reflected in the hours under Records Management in the attached tracking form.

Conclusion

In 2006-2007, there were 51 formal requests. There is a marked increase with total requests reported for 2007-2008. However, part of the increase may be due to the emphasis put on training sessions so that more people are now aware of their rights under the Act. There was also a single requester who made a total of 37 requests to various government departments. Of these 37 requests there were 22 requests to the Commissioner for review.

The process of tracking the number of hours spent on each request is a new concept and will gradually become more exact. A simple request for access to a personnel file, for example, might take one to four hours of an ATIPP coordinator's time. A multi-departmental request might take 300 or more employee hours, involve many employees to search and retrieve records (including Information Technology professionals and records management staff), require legal advice and/or consultation with the ATIPP manager, third parties or other public bodies, and result in the processing of hundreds if not thousands of records.

The least time recorded to handle a very straightforward request was .5 hour and the greatest amount of time by a single department was 240 hours reported by

Health and Social Services on a request for access to personal information. The amount of material provided for requests is now being tracked using a number stamp. The amount of pages released for a single ATIPP request ranged from one page for a very simple request to 2,502 pages for access to personal information from the Department of Health and Social Services.

Increased public awareness of the right of access under the ATIPP Act, ongoing training for staff and the commitment by government to the access and privacy provisions of the Act continues to encourage ATIPP activity within the departments and public bodies of the Government of Nunavut.

