



**Government of the Northwest Territories Response to
Committee Report 30-19(2): Report on the Review of the
2020-2021 Annual Report of the Information and Privacy Commissioner**

Background

The Northwest Territories' *Access to Information and Protection of Privacy Act* (the "ATIPP Act") became law in 1996. It was created to promote access to information that the government creates and receives, and to protect individual privacy rights related to that information. A series of amendments to the ATIPP Act and regulations came into force in 2021 in an effort to modernize the NWT legislation and reflect best practices across Canada. Under the ATIPP Act, the Information and Privacy Commissioner is an independent officer appointed for a five-year term. The ATIPP Act requires the Information and Privacy Commissioner to file an annual report on his activities.

The Standing Committee on Government Operations (the "Standing Committee") conducted a review of the Information and Privacy Commissioner's 2020-2021 annual report. The report summarizing the Standing Committee's review was tabled in the Legislative Assembly on May 30, 2022. It included five recommendations. The GNWT thanks the Standing Committee for its recommendations related to the ATIPP Act and works to ensure access to information and protection of privacy remains a priority for all government services.

The following is the Government of the Northwest Territories (GNWT) response to the recommendations contained in Committee Report 30-19(2): *Report on the Review of the 2020-2021 Annual Report of the Information and Privacy Commissioner*.

Recommendation 1

"That the Government of the Northwest Territories, in consultation with the Information and Privacy Commissioner and by April 1, 2023, establish a government-wide policy that ensures all employees receive appropriate training on the collection, use, and disclosure of personal information. The policy should ensure that new employees receive training early on and all employees receive regular refreshers.

The Committee further recommends that the Government emphasize Indigenous recruitment and retention to fill access and privacy positions."

GNWT Response:

Recognizing the importance of employees receiving appropriate training on the collection, use, and disclosure of personal information, the GNWT commits to ensuring that appropriate training is available for employees regarding access to information and protection of privacy. Increased privacy training will contribute to promoting a proactive approach to protecting personal privacy and a culture of greater privacy awareness will assist in mitigating potential future privacy risks.

The GNWT currently has in place a government-wide 'Learning and Development Policy,' which specifies that the government may determine circumstances where specific learning and/or development should be mandatory for some or all employees. As noted in the Policy, mandatory learning and/or development may be required in areas to reduce the government's legal or financial risk, reflect government priorities and objectives, or in other areas where there may be a need.

In line with the current Policy, there is currently various mandatory training for GNWT employees, including the Department of Finance's Indigenous Cultural Awareness and Sensitivity training that all employees are required to complete, as well as other mandatory training specific to managers and supervisors. Mandatory training is implemented in various ways across the government, including as part of the employee on-boarding process, as part of Management Series training, and can also be included in individual performance evaluation plans.

The Department of Justice is working on updating online courses specific to access to information and protection of privacy. Once updated training is available, the Department of Justice will work with the Department of Finance regarding integrating any new or updated training as part of overall employee learning and development.

The GNWT agrees that we must emphasize Indigenous recruitment and retention to fill access and privacy positions, including when vacant positions are being filled within the Access and Privacy Office.

Recommendation 2

"That the Department of Finance, in consultation with the Information and Privacy Commissioner and by April 1, 2023, update policies governing the use of mobile handheld devices by the public service, including:

1. The Mobile Handheld Devices Policy, to expand the policy provisions for "proper use" to address all the ways a user can collect, use, or disclose personal information with a device;

2. The Employee Code of Conduct, to introduce provisions to protect personal privacy regarding the “use of government equipment and property”; and
3. New policy guidance, to address the use of personal devices and email to conduct government business. The Department of Finance should supplement these policies with easily accessible guidance documents on how devices should and should not be used.”

GNWT Response:

The Department of Finance supports this recommendation and is working to review any policy instruments related to the use of mobile handheld devices across government. It is anticipated that the Department will be able to share updated draft policy documents with the Information and Privacy Commissioner for feedback in summer 2023.

Recommendation 3

“That the Government of the Northwest Territories provide an update on its plan to reduce the use of faxing across the Health and Social Services system, including:

1. Metrics on reductions in the use of faxing achieved so far,
2. The targets and associated timelines for future reductions; and, if faxing cannot or will not be eliminated,
3. An explanation on why the use of fax cannot or will not be eliminated, and what measures the Department is taking to mitigate the risk of data breaches arising from mis-addressed documents.”

GNWT Response:

The GNWT supports the Standing Committee’s recommendation on this matter. Health and Social Services (HSS) has been reducing the use of faxing across the NWT over the past decade through investments in territory-wide clinical information systems. These information systems have enabled digitization of clinical records and eliminated the need to fax between practitioners across the NWT who use the same information systems.

Outside of these information systems, the primary use of fax machines continues to be deeply engrained in the day-to-day flow of transmitting information across the health sector, including GNWT organizations, non-government organizations, retail (e.g. pharmacies), business partners, and other jurisdictional partners. In some cases, legislation and regulations require signatures, and electronic documents must be printed, signed, and faxed as part of the workflow.

Transmission of information using fax technology within the NWT ensures provision of health services for all business environments where there may be an absence of other means of timely communication. Between jurisdictions fax technology provides timely communication to meet requirements enforced by provincial and territorial legal frameworks for management of personal health information.

HSS continues to tackle these complexities when mapping faxing needs and identifying future faxing reduction opportunities by working closely with the Health and Social Services Authorities in a joint effort to proactively assess existing workflows, with an aim to reduce the need to fax records. Conversations with other jurisdictions on how to decrease the legislative restrictions on cross-jurisdictional information exchange for provision of health and social services are also ongoing.

Also, HSS acknowledges that COVID-19 brought additional pressures and challenges, which has also slowed the progress on planning to address the faxing reduction. HSS understands the importance and priority of this issue and are committed to better understanding the current use of faxing across the NWT HSS system, and to continue the work towards further reducing faxing.

Recommendation 4

“That the Government of the Northwest Territories provide an update on complying with Section 72(1) of the *Access to Information and Protection of Privacy Act*, which requires the head of a public body to establish and publish categories of records to be made available to the public without a request for access. The update should include a summary of the progress achieved so far and the timelines for full compliance at each public body.”

GNWT Response:

The GNWT recognizes the public is better served and better informed when the principles of routine disclosure and active dissemination are applied appropriately. The GNWT further recognizes that there is an increased expectation that public bodies disclose information with openness and transparency, while still ensuring personal and sensitive information is appropriately protected.

Section 72(1) of the ATIPP Act requires the head of a public body to establish categories of records within its custody and control not containing personal information that will be made publicly available without requiring an ATIPP request.

The Department of Justice is working through the Open Government Steering Committee, established under the GNWT's *Open Government Policy*, on developing open data and information directives. As part of this work, the Department has completed a jurisdictional scan to identify the categories of information that are commonly released in other jurisdictions to help inform the development of proactive disclosure directives for the GNWT. The Department is also working to identify the categories of information that are currently being released by GNWT departments, as well as other categories of information the GNWT could potentially release, and developing draft directives that would clarify when, where, and how this information should be released.

These draft directives will be shared with GNWT departments for feedback in the fall of 2022 and the Department hopes to have several of them finalized and implemented in early 2023.

In addition to this work, the GNWT is in the later stages of developing an Open Data Portal, an online, searchable catalogue of datasets available to the public. The Open Data Portal will proactively make available government-held data for the review and use of the public, in order to increase the government's transparency and accountability.

Recommendation 5

“The Standing Committee on Government Operations recommends that the Government of the Northwest Territories provide a response to this report within 120 days.”

GNWT Response:

The GNWT is pleased to provide this response to the Standing Committee on Government Operations.