

**NORTHWEST TERRITORIES
INFORMATION AND PRIVACY COMMISSIONER**

Review Report 19-197

Citation: 2019 NTIPC 11

File: 18-161-4

July 5, 2019

BACKGROUND

The Applicant made a request to the Department of Environment and Natural Resources for access to

Any documentation and correspondence regarding the March 17, 2018 report received by ENR of a wolverine killed around or at the Zenith Island Camp at Gordon Lake and the report itself, filed by Delta Engineering

Access to some of the records was provided but other records were denied pursuant to section 23(2)(d) of the Act, the Department taking the position that the disclosure of these records would result in an unreasonable invasion of the privacy of third party individuals.

THE DEPARTMENT'S SUBMISSIONS

In their submissions to this office, the Department indicated that all of the records withheld were withheld pursuant to section 23(2)(d). This section raises a presumption that the disclosure of personal information amounts to an unreasonable invasion of privacy and cannot, therefore, be disclosed where:

the personal information was compiled and is identifiable as part of an investigation into a possible contravention of law, except to the extent that

disclosure is necessary to prosecute the contravention or continue the investigation

They assert that the incident about which the information was requested in this case “is currently under investigation by ENR Renewable Resource Officers in the North Slave Region”. This was on August 29, 2018. They conceded in their submission to me that the application of the exemption “may have been broader than typical” but due to “(a) the sensitivity of the matter, (b) that we anticipate charges will be laid in the case, and (c) that prosecution may follow” they “exercised extreme caution” in the application of the exemption.

THE RECORDS

Of the 45 records identified as being responsive to the Request for Information, only five were released unredacted. Those records disclosed all appear to involve communication between the Applicant and the public body about the incident except for one, which is a discussion between members of the public body with respect to how to respond to a media inquiry. Another 6 were identified as duplicates. Four were classified as “unrelated to scope” and were not disclosed.

This leaves 30 records which were withheld from the Applicant in full.

THE APPLICANT’S RESPONSE

The Applicant was invited to respond to the Department’s submissions but did not do so.

THE RELEVANT SECTIONS OF THE ACT

As always, I start with Section 1 of the Act, which outlines the purposes of the Act:

1. The purposes of this Act are to make public bodies more accountable to the public and to protect personal privacy by
 - (a) giving the public a right of access to records held by public bodies;
 -
 - (c) specifying limited exceptions to the rights of access

Because access is described as a “right” and this section makes it clear that there are “limited” exceptions to that right, the default position in all cases is disclosure.

One of those exceptions is contained in Section 23. Section 23(1) prohibits the disclosure of personal information (that is, information about an identifiable individual) where that disclosure would amount to an unreasonable invasion of that person’s privacy. Section 23(2) outlines situations in which the disclosure of personal information will be presumed to result in an unreasonable invasion of privacy and subsection 23(2)(d), relied on by the public body in this case, raises such a presumption where:

the personal information was compiled and is identifiable as part of an investigation into a possible contravention of law, except to the extent that disclosure is necessary to prosecute the contravention or continue the investigation

Relevant to this review, as well, is section 23(4) which sets out circumstances in which the disclosure of personal information will not be considered an unreasonable invasion of privacy. One of the circumstances is where the information relates to the third party’s employment responsibilities as an employee of the GNWT. To the extent, therefore, that

any of the records in question reveal anything about an employee of the GNWT in the context of his or her responsibilities as an employee, the information is not protected from disclosure pursuant to section 23.

Also of relevance in this case is Section 5(2) of the Act which provides that where information that is excepted from disclosure can be reasonably severed from a record, the Applicant has a right to receive the remainder of the record. This requires, therefore, that public bodies conduct a line-by-line and a word-by-word review of each record and that only those parts of the record that fit the exception to disclosure are to be withheld by means of redaction of the record.

Finally, it is important to understand the meaning of “personal information” as defined in the Act. Section 2 of the Act requires that to qualify as personal information, the information must be about an identifiable individual. This eliminates information about corporations, businesses, governments, or organizations. To qualify as personal information the information must be about an identifiable individual. If there is a way to remove personal identifiers from the record in a way that that person cannot be identified, the identifiers must be removed and the balance of the record disclosed.

The definition of “personal information” contained in Section 2 also includes a non-inclusive list of the kinds of information that would be included as “personal information” under the definition, including:

- the individual's name, home or business address or home or business telephone number;
- information about the individual's educational, financial, criminal or employment history;
- anyone else's opinions about the individual.

DISCUSSION

In order for section 23(2)(d) to raise a presumption that disclosure would amount to an unreasonable invasion of a third party's privacy, several conditions must be met.

1. The information must be "personal information" as defined in the Act. Only real people, as opposed to companies, governments, or organizations, are entitled to the privacy protections of Section 23.
2. The information has to have been "compiled" and be "identifiable as part of an investigation into a possible contravention of law".

If a record does not contain information which could be reasonably expected to reveal the identity of an individual, it does not qualify for an exception under Section 23(2)(d). If the information is not **compiled and identifiable as a part of an investigation**, it does not attract the protection of Section 23(2)(d).

When considering the application of exceptions to the rule of disclosure under the Act, each record must be assessed line by line and, in some cases, word by word. It is not clear that this was done in this case because the majority of the records were withheld in full. Disclosure is the rule and the withholding of so many records in full is an unusual circumstance. Section 5(2) of the Act requires that, when protected information can be reasonably severed from a record, that must be done and the balance of the record must be provided to the Applicant.

In the analysis that follows, I will refer to the page numbers provided by the public body and date or other details at the top of the apparent first page of every record for identification purposes. Unless otherwise indicated, each "record" consists of an email chain. Unfortunately, the public body has not identified any of the individuals involved in

the discussions (in terms of whether or not they are Department employees or what their job descriptions or positions are within the Department). I have, where possible confirmed those who I can by looking them up in the GNWT on-line phone directory but I cannot determine whether any of them are clearly tasked with investigating incidents such as the one in question as no job descriptions were provided. I am left to make some assumptions from the content of the records themselves.

Pages 1 - 3 (Email dated July11, 2018, 1:33pm)

This email chain contains correspondence between employees of the Department. The only information contained in this record which might reveal the name or identity of any third party in these records has already been revealed in the few records that were disclosed to the Applicant in response to his request for information. There is nothing in the exchange which clearly relates to any investigation. There is nothing in this record which would qualify it for an exemption pursuant to section 23(2)(d). I **recommend** that these three pages be disclosed in full.

Pages 4 - 5 (Email dated July 10, 2018, 4:40 pm)

These two pages contain a copy of part of the record disclosed to the Applicant. I **recommend**, for the sake of thoroughness, that this record be disclosed in full.

Pages 6 - 9 (Email dated July 10, 2018, 12:08 pm)

Reading this email chain in chronological order, the first email (March 22, 2018, 3:58 pm) is correspondence from an individual employed by the Federal Government and working on the site where the incident took place. It refers to the "incident" and appears to serve as notice to the Department that the incident occurred. The disclosure of the name of the author of the email would not constitute an unreasonable invasion of privacy because it is written in the author's capacity as an employee of the Federal Government and does not contain any information that is not related to his employment.

The email does not make reference to any other identifiable third party. It cannot, therefore, be protected from disclosure pursuant to section 23(2)(d).

Moving up the chain, the next email (March 22, 2018 4:06) is a response to the author of the previous email. It does refer to another employee of the Department by name. The information, however, is about that employee's job responsibilities. The disclosure of his name, in this context, does not amount to an unreasonable invasion of privacy.

The next chain in the email (March 22, 2018, 4:43 pm) provides some information about a contracting company. This is not, however, personal information. It is about a corporation or organization. It does not, therefore meet the criteria for an exception under section 23(2)(d).

There is nothing in the next email in the chain (March 22, 2018, 4:55 pm) that would qualify for an exception pursuant to section 23(2)(d).

The next email up the chain (March 26, 2018 11:42 am) contains the name of an employee of the contracting company as well as that person's business contact information. The contracting company is not a public body and the employee is not a GNWT employee. For this reason, I am prepared to concede that the information which would identify this employee, if disclosed, might result in an unreasonable invasion of his privacy. I **recommend** that this email be disclosed with the following information redacted:

- the name in the first line of the body of the email
- the name, position and email address of the individual
- the cellphone number of the individual

The rest of the emails in this record do not reveal the personal information of any other non-GNWT employee. As noted above, the disclosure of information related to an

employee's responsibilities as an employee is deemed not to constitute an unreasonable invasion of privacy by the application of section 23(4)(e).

I **recommend** the disclosure of this entire email chain with the exception of the information about the contractor's employee as indicated above.

Pages 10 - 15 (Email dated July 10, 2018, 1:39 pm)

With the exception of the same contractor's personal information as noted above in an email dated March 26, 2018, there is nothing in this chain which would identify any individual other than employees of the GNWT or the federal government. Section 23(2)(d) does not apply. I **recommend** the disclosure of the entire chain with the exception of the information which would identify the contractor's employee, as discussed above.

Pages 16 - 20 (Email dated July 10, 2018, 1:12 pm)

With the exception of the last (most recent) email in the chain, this chain contains the same email chains as discussed above and I **recommend** the record be handled as discussed above. With respect to the new email in the chain (July 10, 2018, 1:12 pm) there is a cell phone number referred to and it is unclear whether that is a business number or a personal number. To err on the safe side, I **recommend** that this email be disclosed with the cellphone number redacted.

Pages 21 - 26 (Email dated July 10, 2018, 1:39 pm)

Once again, most of this email chain is a duplicate of emails discussed above. To the extent that the emails contained in this email are the same as those discussed above, I **recommend** they be treated accordingly.

The three new emails contain nothing that would identify a third party and they contain no personal information about a third party. I **recommend** that these three emails be disclosed.

Pages 27 - 32 (Email dated July 10, 2018, 2:07 pm)

Once again, most of this email chain is a duplicate of emails discussed above. To the extent that the emails contained in this email are the same as those discussed above, I **recommend** they be treated accordingly.

The one new email in this chain contains nothing that would identify a third party and it contains no personal information about a third party. I **recommend** that this email be disclosed.

Pages 33 - 39 (Email dated July 10, 2018, 2:21 pm)

Most of the emails in this chain have been discussed above and I **recommend** they should be treated accordingly.

There are three new emails in the chain but there is nothing in any of these three emails that could possibly identify a third party. I therefore **recommend** that these three new emails be disclosed.

Pages 40 - 43 (Email dated July 10, 2018, 12:16 pm)

The only new email on this page contains no information that would reveal the identity of a third party or result in any unreasonable invasion of a third party's privacy. I **recommend** that this email be disclosed.

The remaining emails in this record are duplicates and I **recommend** they should be dealt with accordingly.

Pages 44 - 53

This document appears to originate from a third party company. It outlines the company's policies applicable to employees working at remote sites, including orientation training requirements, wildlife contingency plans, a firearm and ammunition protocol, how to prevent and respond to bear encounters, and minimizing risk to wildlife. There is nothing in this document which can possibly be characterized as the personal information of any individual. It is not protected in any way from disclosure pursuant to section 23.

There may, however, be a case to be made that this record is subject to a mandatory exception pursuant to section 24 of the Act. This section prohibits the disclosure of information that would:

- a) reveal trade secrets of a third party;
- b) reveal financial, commercial, scientific or labour relations information obtained in confidence from a third party
- c) reveal information that is of a confidential nature and was supplied by a third party in compliance with a legal requirement.

This is clearly information that was received from a third party. It does not appear to contain what would be considered "trade secrets", nor do I think the information in the record is "financial, commercial, scientific or labour relations" in nature. It may be information supplied by the third party in compliance with a legal requirement, but what that legal requirement might be is unclear. From my point of view, however, there is nothing in this record which would appear to be proprietary or unique in terms of approach so I have trouble concluding, without more, that section 24 is applicable.

However, because section 24 is mandatory (ie: public bodies are prohibited from disclosure if the information meets the criteria) I **recommend**:

- a) that the public body reassess this record with reference to section 24(1)(a) and/or 24(1)(b);
- b) if the public body thinks that this information does not meet the criteria for an exemption pursuant to section 24, that the public body consult with the third party in accordance with section 26 and proceed accordingly;
- c) if the public body wishes to withhold access to this record pursuant to section 24, that they give the Applicant a clear and detailed explanation for their decision not to disclose

Pages 54 to 63

These pages are a duplicate of pages 44 to 53 and I **recommend** they be treated accordingly.

Pages 64 to 69 (Email dated July 10, 2018 4:42 pm)

This is yet another version of the email chains discussed above. To the extent that the emails which appear in this record have already been discussed above, I **recommend** they be treated accordingly.

There are two new emails in this chain. The first of these chronologically (July 10, 2018, 2:11 pm) contains the name and contact information for an individual who appears to be employed by a third party contractor. I **recommend** that the name of this individual be redacted in the two places it appears in the email and that his email address and cell number also be redacted. I **recommend** that the balance of this email be disclosed.

With respect to the other new email in the chain (July 10, 2018 4:42 pm), there is nothing in this email that can be classified as being the personal information of a third party. I **recommend** that this email be disclosed.

Pages 70 to 79

This record appears to be a form created and completed by the third party contractor entitled "Incident Report". It appears to have been provided to the public body as a result of the incident in issue in this review. There is nothing in this record which suggests that it was intended or expected to be held in confidence. It does not contain any proprietary information about the third party - it is a factual report of an incident. It may have been provided to the department in response to a legal requirement, but that is unclear.

With respect to the record as a whole, it does not meet the criteria for an exemption from disclosure pursuant to section 23(2)(d). There are some portions of the record which contain the personal information of third parties, the disclosure of which may qualify for such an exception. In particular:

- the details in the box entitled "sequence of events" on page 70
- the name of the witness, the information in the box entitled "Describe Events Witnessed" and the signature on pages 73 to 79

Alternatively, this information fits the criteria for an exception to disclosure pursuant to section 20 of the Act which gives public bodies the discretion to refuse to disclose information where there is a "reasonable possibility that the disclosure could prejudice a law enforcement matter". If the investigation is complete and any charges have been dealt with completely, this section no longer applies.

If the investigation and/or the prosecution of any charges resulting from the incident have not yet been completed, I **recommend** the disclosure of this record with the exception of the items noted above. If the investigation is now completed and any charges or prosecutions resulting from the incident have been fully dealt with, I

recommend the disclosure of the information contained in those sections except for any reference to any identifiable individuals.

Page 80 (Email dated July 16, 2019, 1:03 pm)

There is nothing in this email that would serve to identify any third party who is the subject of an investigation. I **recommend** that it be disclosed, with the exception of the name of the author (two places) and the author's email address.

Page 81

This record is entitled "Warned Statement". It is mostly blank but contains the name, date of birth, driver's license number and address of a particular individual. All of that information is personal information, the disclosure of which would result in an unreasonable invasion of the individual's privacy. I **recommend** that this document be disclosed, but with the above noted information removed.

Pages 82 to 85 (Email dated July 24, 2018, 9:52 am)

Every email in this chain has been discussed above and I **recommend** that it be redacted accordingly and provided to the Applicant.

Pages 86 to 92 (Email dated July 10, 2018, 2:18 pm)

Every email in this chain has been discussed above and I **recommend** that it be redacted accordingly and provided to the Applicant.

Pages 93 to 96

This appears to be a partial duplicate of the document on pages 70 to 79 and I **recommend** it be treated accordingly. There are some hand written notes on page 96. I **recommend** that the names and the email address on this page should be redacted before the record is disclosed.

Pages 97 to 99

This appears to be another version of the document on pages 70 to 79 and I **recommend** it be treated accordingly

Pages 100 and 101 (Email dated March 22, 2018, 3:58 pm)

This is a copy of an email discussed above and I **recommend** it be treated accordingly. (It should be noted that page 101 is blank)

Pages 102 to 103 (Email dated Marh 22, 2018 4:43 pm)

All of the emails in this chain have been discussed above and I **recommend** they be treated accordingly.

Pages 104 to 106 (Email dated April 5, 2018, 3:04 pm)

Most of the emails in this chain have been discussed above and I **recommend** they be treated accordingly. There appear to be two new emails in the chain. Neither of these emails contains anything that might identify any individual other than the government employees involved in the exchange. There is nothing in these emails which, if disclosed, would amount to an unreasonable breach of privacy. I **recommend** these emails be disclosed.

Pages 107 to 109 (Email dated April 5, 2018 11:09 am)

All of the emails in this chain have been discussed above and I **recommend** they be treated accordingly.

Pages 110 to 111 (Email dated March 26, 2018, 11:42 am)

All of the emails in this chain have been discussed above and I **recommend** they be treated accordingly.

Pages 112 to 114 (Email dated January 19, 2019, 12:00 am)

This is a new series of emails between a number of GNWT employees and is about the ATIPP request itself rather than the subject matter of the request. There is nothing in this email chain that would identify any third party and section 23 does not, therefore apply. However, there is a link on page 113 which might, if followed, lead to records compiled for the purpose of this request but not yet vetted. I therefore **recommend** the disclosure of this record, with the exception of the link.

Pages 115 to 118 (Email dated July 20, 2018, 12:24 pm)

Most of the emails in this chain are contained in pages 112-114 and I **recommend** they be treated accordingly. There is nothing in any of the new emails in this chain that would serve to identify a third party in any way. I **recommend** that these emails be disclosed.

Pages 119 to 121 (Email dated July 20, 2018, 12:02 pm)

All of the emails in this chain are contained in pages 115-118 and I **recommend** they be treated accordingly.

Pages 122 to 124 (Email dated July 20, 2018, 10:51 am)

All of the emails in this chain are contained in pages 115-118 and I **recommend** they be treated accordingly.

Pages 125 to 126 (Email dated July 20, 2018 10:33 am)

All of the emails in this chain have been previously discussed and I **recommend** they be treated accordingly.

Pages 127 to 128 (Email dated July 20, 2018 10:32 am)

All of the emails in this chain have been previously discussed and I **recommend** they be treated accordingly.

Pages 129 to 133 (Email dated July 11, 2018, 4:13 pm)

Once again most, if not all, of the emails in this chain have been discussed above and I **recommend** they be addressed accordingly. To the extent that the record contains new emails, none of them contain any information that might identify any individual involved in the incident and section 23(2)(d) does not, therefore, apply. I **recommend** the disclosure of all of the emails not already discussed.

Pages 134 to 136 (Email dated July 11, 2018, 12:22 pm)

Once again most, if not all, of the emails in this chain have been discussed above and I **recommend** they be addressed accordingly. To the extent that the record contains new emails, none of them contain any information that might identify any individual involved in the incident and section 23(2)(d) does not, therefore, apply. I **recommend** the disclosure of all of the emails not already discussed.

Pages 134 to 136 (Email dated July 11, 2018, 12:22 pm)

Once again most of the emails in this chain have been discussed above and I **recommend** they be addressed accordingly. To the extent that the record contains new emails, none of them contain any information that might identify any individual involved in the incident and section 23(2)(d) does not, therefore apply. I **recommend** the disclosure of all of the emails not already discussed.

Pages 137 to 139 (Email dated July 11, 2018, 12:21 pm)

This seems to be a duplicate of the previous record but for the one-minute time differential. I **recommend** it be addressed accordingly.

Pages 140 to 146 (Email dated July 10, 2018 2:21 pm)

All of the emails in this chain have been discussed previously and I **recommend** they be treated accordingly.

Pages 147 to 153 (Email dated July 10, 2018, 2:18 pm)

All of the emails in this chain have been discussed previously and I **recommend** they be treated accordingly.

Pages 154 to 157 (Email dated July 10, 2018, 2:17 pm)

Most of the emails in this chain have been previously discussed and I **recommend** they be treated accordingly. To the extent that there are new emails in the chain, I **recommend** that those emails be disclosed, with the exception of the name, email address and cell phone number of the employee of the third party contractor, which should be redacted where ever this information appears.

Pages 158 to 164 (Email dated July 10, 2018 2:12 pm)

All of the emails in this chain have been discussed above and I **recommend** they be addressed accordingly.

Pages 165 to 170 (Email dated July 10, 2018 2:08 pm)

All of the emails in this chain have been discussed above and I **recommend** they be addressed accordingly.

Page 171 (Email dated July 10, 2018, 2:05 pm)

This record contains no information that would identify a third party involved in the incident in question. I **recommend** that it be disclosed with the exception of the name and email address of the third party contractor's employee.

Page 172 (Email dated July 10, 2018 2:01 pm)

This record contains no information that would identify a third party involved in the incident in question. I **recommend** that it be disclosed with the exception of the name and email address of the third party contractor's employee.

Page 173 (Email dated July 10, 2018 2:01 pm)

This record contains no information that would identify a third party involved in the incident in question. I **recommend** the disclosure of this record in full.

Pages 174 to 179 (Email dated July 10, 2018, 1:39 pm)

All of the emails in this chain have been discussed above and I **recommend** they be addressed accordingly.

Pages 180 to 184 (Email dated July 10, 2018, 1:22 pm)

All of the emails in this chain have been discussed above and I **recommend** they be addressed accordingly.

Pages 185 to 189 (Email dated July 10, 2018, 12:34 pm)

All of the emails in this chain have been discussed above and I **recommend** they be addressed accordingly.

Pages 190 to 195 (Email dated July 10, 2018, 12:26 pm)

All of the emails in this chain have been discussed above and I **recommend** they be addressed accordingly. It should be noted that pages 194 and 195 are blank.

Pages 196 to 198 (Email dated April 9, 2018, 8:45 am)

All of the emails in this chain have been discussed above and I **recommend** they be addressed accordingly.

Pages 199 to 201 (Email dated April 5, 2018, 2:34 pm)

All of the emails in this chain have been discussed above and I **recommend** they be addressed accordingly.

Pages 202 to 203 (Email dated March 22, 2018, 4:55 pm)

All of the emails in this chain have been discussed above and I **recommend** they be addressed accordingly.

Pages 204 to 205 (Email dated March 22, 2018, 4:06 pm)

All of the emails in this chain have been discussed above and I **recommend** they be addressed accordingly.

Pages 206 to 208(Email dated July 23, 2018, 9:46 am)

Most of the emails in this chain have been discussed above and I **recommend** they be addressed accordingly. The record contains one new email which does not contain any information that might identify any individual involved in the incident and section 23(2)(d) does not, therefore apply. I **recommend** the disclosure of all of the new email in this chain.

Pages 209 to 211 (Email dated July 11, 2018, 1:33 pm)

All of the emails in this chain have been discussed above and I **recommend** they be addressed accordingly.

Pages 212 to 217 (Email dated March 22, 2018, 4:06 pm)

All of the emails in this chain have been discussed above and I **recommend** they be addressed accordingly.

Pages 218 to 221 (Email dated July 10, 2018, 2:01 pm)

All of the emails in this chain have been discussed above and I **recommend** they be addressed accordingly.

Pages 222 to 227 (Email dated July 10, 2018, 2:01 pm)

Most of the emails in this chain have been discussed above and I **recommend** they be addressed accordingly. The record contains one new email which does not contain any information that might identify any third party individual involved in the incident and section 23(2)(d) does not, therefore apply. I **recommend** the disclosure of the new email in this chain.

Pages 228 to 232 (Email dated July 10, 2018, 1:36 pm)

All of the emails in this chain have been discussed above and I **recommend** they be addressed accordingly.

Pages 233 to 237 (Email dated July 10, 2018, 12:03 pm)

All of the emails in this chain have been discussed above and I **recommend** they be addressed accordingly. It should be noted that page 237 is blank.

Pages 238 to 244 (Email dated July 10, 2018, 3:53 pm)

All of the emails in this chain have been discussed above and I **recommend** they be addressed accordingly.

Pages 245 to 250 (Email dated July 10, 2018, 1:39 pm)

All of the emails in this chain have been discussed above and I **recommend** they be addressed accordingly.

Pages 251 to 254 (Email dated July 10, 2018, 12:08 pm)

All of the emails in this chain have been discussed above and I **recommend** they be addressed accordingly.

Pages 256 to 258 (Email dated July 11, 2018, 4:19 pm)

All of the emails in this chain have been discussed above and I **recommend** they be addressed accordingly.

Pages 259 to 260 (Email dated July 11, 2018, 11:37 pm)

Most of the emails in this chain have been discussed above and I **recommend** they be addressed accordingly. The record contains one new email which does not contain any information that might identify any third party individual involved in the incident and section 23(2)(d) does not, therefore apply. I **recommend** the disclosure of the new email in this chain.

Pages 261 to 263 (Email dated July 11, 2018, 11:37 pm)

Most of the emails in this chain have been discussed above and I **recommend** they be addressed accordingly. The record contains one new email which does not contain any information that might identify any third party individual involved in the incident and section 23(2)(d) does not, therefore apply. I **recommend** the disclosure of the new email in this chain.

Pages 264 to 265 (Email dated July 13, 2018, 1:22 pm)

While the information in this email appears to be part of the investigation into the incident in question, provided that the name(s) of the party(ies) involved are redacted, the content of the email would not serve to identify any particular individual. Nor does it reveal any of the details of the incident. Section 23(2)(d) does not apply. I **recommend** that the name(s) be redacted and that the balance of this email be disclosed.

Pages 266 to 267 (Email dated July 20, 2018, 9:47 am)

The second email in this record is the same as appears at page 264/265 and I **recommend** it be dealt with accordingly. The new email on the page does not reveal

any personal information, nor does it reveal any of the details of the incident. I **recommend** that this email be disclosed.

Pages 268 to 270 (Email dated July 20, 2018, 12:02 pm)

All of the emails in this chain have been discussed above and I **recommend** they be addressed accordingly.

Pages 271 to 274 (Email dated July 10, 2018, 12:07 pm)

All of the emails in this chain have been discussed above and I **recommend** they be addressed accordingly.

Pages 275 to 285

These documents have nothing whatsoever to do with the incident for which the Applicant is seeking information. They were improperly included in the list of responsive records and the ATIPP Coordinator was right to withhold access.

Pages 286 to 289 (Email dated July 20, 2018, 12:24 pm)

Most of the emails in this chain have been discussed above and I **recommend** they be addressed accordingly. The record contains one new email which does not contain any information that might identify any third party individual and section 23(2)(d) does not, therefore apply. I **recommend** the disclosure of the new email in this chain.

Page 290 (Email dated March 26, 2018 9:01 am)

There does not appear to be any information in the emails in this record that would in any way identify any individual or disclose personal information about any third party. It is merely an exchange of emails between Department employees about administrative matters. Section 23(2)(d) does not apply. I **recommend** the disclosure of the entire record.

Pages 291 and 292 (Email dated March 26, 2018 9:04 am)

There does not appear to be any information in the emails in this records that would in any way identify any individual or disclose personal information about any third party. It is merely an exchange of emails between Department employees about administrative matters. Section 23(2)(d) does not apply. I **recommend** the disclosure of the entire record.

Pages 293 to 295

This record is entitled "JGordon Lake Patrol Report, March 15 - 22, 2018". It appears to be a report prepared by a Department employee about his work for the week. There are many names of individuals contained in the report, though there is very little context about why the names are in the report or whether those named are GNWT employees or private sector employees or simply private citizens, though my guess would be that these are names of individuals the Department employee spoke with along the winter road. I **recommend** that the names of all individuals who are not GNWT employees actively involved in conducting GNWT business be redacted. In addition, on the top of page 295 there is a brief reference to the incident in question, including a name of an individual involved (third line and fourth lines). I am satisfied that these two lines should also be redacted pursuant to section 23(2)(d) and section 20(1), which allows a public body to refuse to disclose information where the information may prejudice a law enforcement matter. I **recommend** that these lines be redacted and that the balance of this record be disclosed. If the investigation has been completed and any charges have been dealt with, I **recommend** the disclosure of these two lines, with the exception of the name of the employee.

Page 296 (Email dated March 29, 2018, 11:20 pm)

There does not appear to be any information in the emails in this record that would in any way identify any individual or disclose personal information about any third party. It

is merely an exchange of emails between Department employees about administrative matters. Section 23 does not apply. I **recommend** the disclosure of the entire record.

Pages 297 and 298 (Email dated March 28, 2018, 2:25 pm)

This record does not in any way identify any individual third party. It is an email among Department employees about administrative issues. I **recommend** the disclosure of the entire record.

Pages 299 to 301 (Email dated July 23, 2018, 11:04 am)

This record does not in any way identify any individual third party. It is an email among Department employees in relation to administrative issues. I **recommend** the disclosure of the entire record.

Pages 302 to 308 (Email dated July 10, 2018, 2:21 pm)

All of the emails in this chain have been discussed above and I **recommend** they be addressed accordingly.

CONCLUSION

My individual recommendations about the records themselves are contained in the discussion above. It is clear in this case that the public body did not comply with section 5(2) which requires the disclosure of partial documents when those documents can be severed so as to protect information that should not be disclosed. Furthermore, their interpretation of section 23(2)(d) of the Act was flawed at best. Very little of the considerable information withheld met the criteria for an exemption pursuant to section 23(2)(d) or any other section of the Act. This may be the result of the inexperience or lack of training of the ATIPP Coordinator in responding to ATIPP requests or some other cause. The Act dictates that disclosure is the rule and public bodies should not be trying to find ways to withhold information. The focus should always be on finding ways

to ensure the greatest possible disclosure, with exceptions applied only where they are clearly applicable, regardless of how sensitive an issue might be. I **recommend** that the Department provide advanced training to its ATIPP Coordinator to ensure a full understanding of the Act, the exceptions and how they apply.

Elaine Keenan Bengts
Information and Privacy Commissioner