



**NORTHWEST
TERRITORIES
INFORMATION
AND PRIVACY
COMMISSIONER**

5018 - 47th Street
P.O. Box 262
Yellowknife, NT
X1A 2N2

September 5, 2001

Legislative Assembly of the
Northwest Territories
P.O. Box 1320
Yellowknife, NT
X1A 2L9

Attention: David Hamilton
Clerk of the Legislative Assembly

Dear Sir:

I have the honour to submit my annual report to the Legislative Assembly of the Northwest Territories for the period from April 1st, 2000 to March 31st, 2001.

Yours very truly

Elaine Keenan Bengts
Information and Privacy Commissioner
Northwest Territories



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**ACCESS TO INFORMATION
AND PROTECTION OF PRIVACY
COMMISSIONER
ANNUAL REPORT
2000/2001**

Government "recordkeeping" is the foundation of efficient, effective and accountable government. The information and knowledge captured and available in government records represents a major investment of intellectual property

Hon. John Reid, P.C.
Federal Information Commissioner
Annual Report, Information Commissioner 2000-2001

I. COMMISSIONER'S MESSAGE

Although it is a quiet piece of legislation, not given much attention by legislators or the public, the Access to Information and Protection of Privacy Act may be one of the most important pieces of legislation in existence in terms of preserving long held democratic ideals. This legislation preserves and protects two fundamental aspects of democracy. The first is openness and accountability of government agencies and the second, the right to know that information which the government collects about us will be kept private and be used only for the purposes it was collected. Access to information laws have been useful instruments for improving public understanding of the policy-making process and for protecting citizens against arbitrary decisions by public bodies. The advent of new and ever-expanding information technology makes the security and protection of private, personal information more and more important in a world where information is more valuable than gold.

Once again, I am happy to report that the spirit and intention of the Act has been embraced by the majority of the departments within the Government of the Northwest Territories. My office receives relatively few requests to review decisions made by government agencies respecting to Access to Information requests. I take this as a sign that, for the most part, the requests are being fully addressed at the preliminary level. This is

Secrecy is inherently attractive to governments, and demands for accountability through use of the law butt up against the instincts of self protection

Ann Cavoukian, Ph.D
Information and Privacy Commissioner of Ontario

Annual Report 2000

the way that the scheme is intended to work and tells me that there has been a concerted effort on the part of the various government departments to interpret the act in its broadest sense and to provide the information requested most of the time. There will always be issues of interpretation of the various exemption sections of the Act. The Information and Privacy Commissioner's office has been established to oversee this process and the decisions made.

On the Access to Information side, it would be helpful to have statistics which show the number of access requests received by each government department each year so as to give us some idea about how many requests are actually being received and which government departments are receiving the largest number of requests.

Once again this year, several of the complaints that did hit my desk were those which dealt with privacy issues and alleged improper use of personal information. With today's electronic recording and storing of information, people generally are becoming more and more concerned about how that information is being used. Several complaints were received this year dealing with the use that is made of personal medical records. It might surprise most of us to know how much of our personal health information is shared and with whom. The Access to Information and Protection of Privacy Act can only deal with breaches of patient confidentiality if

The passage of the Personal Information Protection and Electronic Documents Act marks a significant step forward for Canada, putting it in the forefront of those nations embracing technological progress and electronic commerce while still protecting and enhancing long-cherished fundamental rights

George Radwanski
Federal Privacy Commissioner

Your Privacy Responsibilities -
Canada's Personal Information
Protection and Electronic Documents Act

that breach comes from a government run or operated institution. Private institutions, including dentists offices, chiropractors, pharmacists, optometrists and others within the health care system, are not covered by the Act. That is not to say that these groups are misusing patient information. What it is to say is that there is no "watchdog" to ensure that only proper use is made of personal information. Many southern jurisdictions, including Alberta and Manitoba, have passed separate legislation to deal with the protection of privacy in the health industry and other jurisdictions, such as Ontario, the Yukon and British Columbia, are currently considering such legislation. This may be an area that deserves some consideration in the Northwest Territories.

Another development which may have significant impact on the Northwest Territories is the coming into effect of the *Personal Information Protection and Electronic Documents Act*, which is federal legislation intended to regulate the collection, storage and use of personal information in the private sector. This legislation came into effect for "federal works" and for companies who transfer information over provincial/territorial borders, on January 1st, 2001. The Act comes into effect for all other commercial activities on January 1st, 2004 unless, prior to that provincial legislation is passed which is similar or substantially similar to govern the use of information in the individual provincial/territorial jurisdictions. The intention was to give the provinces

We have to determine who will be the custodian or custodians of the citizens' health information. For our part, we feel the concentration of information within one organization implies serious risks for the confidentiality of personal information. There are indeed more risks in this approach than in the decentralization of information, which results in many custodians of the information.

Jennifer Stoddart
President, Commission
d'accès à l'information

May 9, 2001

and territories time to formulate their own legislation to deal with this issue in each province or territory. The Federal Privacy Commissioner's Office, however, which has been given the task of overseeing the Act and dealing with complaints received under it, has taken the position that all of the Northwest Territories (and the other two territories) are "federal works" and, therefore, subject to the Act immediately. This means that should there be a complaint about a Northwest Territories company failing to protect personal information, the complaint will be investigated and dealt with by the Federal Privacy Commissioner. I have advised the Department of Justice of the position being taken by the Federal Privacy Commissioner and I understand that there is an ongoing dialogue between the federal and the territorial government with respect to this interpretation being given to the Act. However, it seems to me that the best way to avoid having a federal government agency dealing with privacy complaints arising in the Northwest Territories is to establish our own legislation as soon as possible.

It is encouraging to see that the Department of Justice has this year sponsored a series of training programs to help government employees, especially those who are required to deal with Access to Information requests on a day to day basis, learn some of the intricacies of the Act. I know from my discussions with a number of people who attended these sessions that they were both informative and eye opening. I would encourage the Department of

The new millennium heralds an era of unprecedented technological development that will undoubtedly pose fresh challenges to personal data privacy. The most immediate examples of the changes we are witnessing would be: the global reach of computer based networks; the consolidation of the "information economy"; the evolution and diffusion of E-commerce; the advent of the smart card society; electronic road pricing; sophisticated workplace surveillance systems and advances in biometrics.

Stephen Lau Ka-men
Hong Kong Privacy Commissioner for Personal Data
1999/2000 Annual Report

Justice to continue to offer these programs on an ongoing basis and to try to open them up to employees outside of Yellowknife.

In June, 2001, the my office will be hosting the Information and Privacy Commissioners from across the country in Yellowknife for our annual get together. I am very excited about the prospect of hosting this conference and am thrilled to have the opportunity to show off some of the natural wonders we have to offer in the Northwest Territories.

My goal for 2001/2002 is to finalize a web page and get it on line. There has been a considerable amount of preliminary work done on this and it should be up and running by the end of the year.

It continues to be my pleasure to be able to hold this position and to work with the government to ensure that the goals and objectives contemplated by the Access to Information and Protection of Privacy Act are met.

II. INTRODUCTION

A. ACCESS TO INFORMATION

Background

In the cat-and-mouse game which persists between members of the public who want to see information and the officials who want them to see as little as possible, there are three hurdles which must be overcome by the information seekers: delay, excessive application of exemptions (blacking out/censoring) and inability to find the requested records. The last is now the most worrisome hurdle. Information management in the federal government is in such a sorry state that the term has almost become an oxymoron. There is a record keeping crisis and it threatens the viability of the right of access.

Hon. John Reid, P.C.
Information Commissioner
for Canada
Annual Report 1999-2000

Access to Information and Protection of Privacy legislation was developed as a way to encourage and promote open and accountable government while recognizing that government agencies hold considerable amounts of personal, private information about individuals which need to be protected from improper use or disclosure. In the Northwest Territories, our legislation came into effect on December 31st, 1996.

The Act provides the public with a means of gaining access to information in the possession of the Government of the Northwest Territories and a number of other governmental agencies subject to certain exceptions which are spelled out in the Act. These exceptions function to protect individual privacy rights, and allow elected representatives to research and develop policy and run the business of the government. The Act also gives individuals the right to see and make corrections to information about themselves in the possession of a government body. Pursuant to current regulations, there are 32 departments, boards and other agencies subject to the Access to Information and Protection of Privacy Act.

In the last twenty years, Canadian FOI laws have proved to be valuable tools for improving government accountability and protecting citizens against arbitrary government action. Citizens have come to expect that public institutions will maintain effective FOI systems and are unlikely to concede the legitimacy of institutions that fail to do so.

Alasdair Roberts
"Retrenchment and freedom of Information: Recent Experience under Federal, Ontario and British Columbia Law" Canadian Public Administration, Volume 42, No 4, p445

The Process

Each of the public bodies governed by the Act has appointed an ATIPP Co-ordinator to receive and process requests for information. Requests for information must be in writing but do not require any particular form (although there are forms available to facilitate such requests). Requests are submitted, along with the \$25.00 fee, to the appropriate public body. There is no fee for a request to access an individual's own personal information.

The role of the public body is to apply the specific requirements of the *Access to Information and Protection of Privacy Act* to each request received while at the same time protecting private information of and about individuals which they have in their possession as well as certain other specified kinds of information. Because of the exceptions to disclosure contained in the Act, the ATIPP Co-ordinators are often called upon to use their discretion in determining whether or not to release the specific information requested. The ATIPP Co-ordinators must exercise their discretion to ensure a correct balance is struck between the applicant's general right of access to information and the possible exceptions to its disclosure under the Act.

In the case of personal information, if an individual finds information on a government record which they feel is misleading or incorrect, a request in writing may be

Identifying interests at an early stage may provide a foundation for resolving the matter well before it becomes a formal request under the Act.

It isn't easy to balance the needs of the individual with a rights based system and the statutory duty of the public body under the Act. While it takes extra effort, utilizing dispute resolution techniques can save time; often reduce frustration for both the applicant and the public body, and create a positive outcome.

Sharon Kelly
OIPC Voice
March 2001

made to correct the error. Even if the public body does not agree to change the information, a notation must be made on the file that a request has been made that it be changed.

The role of the Information and Privacy Commissioner is to provide an independent review of discretionary decisions made by the public bodies in the application of the Act. The Commissioner's office provides an avenue of non-binding appeal to those who feel that the public body has not properly applied the provisions of the Act. The Commissioner is appointed by the Legislative Assembly but is otherwise independent of the government. The independence of the office is essential for it to maintain its credibility and ability to provide an impartial review of the government's compliance with the Act. Under the Act, a Commissioner is appointed for a five (5) year term.

The ATIPP Commissioner is mandated to conduct reviews of decisions of public bodies and to make recommendations to the Minister involved. The Commissioner has no power to compel compliance with her recommendations. The final decision in these matters is made by the "head" of the public body involved. In the event that the person seeking information does not agree with the decision made by the head of the public body, that party has the right to appeal that decision to the Supreme Court of the Northwest Territories.

Technological pressures, such as the increased capacity of our telecommunications infrastructure, the exponential growth of the Internet, and the promise of wireless technologies, have brought privacy issues to the fore, and growing awareness of privacy issues is fueling public demand for protection. At the same time, the vast technological capability we now have is fueling a parallel public demand for faster, more efficient, and more responsive access to government information and services. The challenge is to ensure that the open electronic window is as privacy protective as it is accessible.

Dr. Ann Cavoukian
Information and Privacy
Commissioner for Ontario

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In addition to the duties outlined above, the Commissioner has the obligation to promote the principles of the Act through public education. She is also mandated to provide the government with comments and suggestions with respect to legislative and other government initiatives which effect access to information or the distribution of private personal information in the possession of a government agency.

B. PROTECTION OF PRIVACY

The *Access to Information and Protection of Privacy Act* also provides rules with respect to the collection and use of personal information by government agencies. Part II of the Act outlines what have become generally accepted rules for protection of privacy internationally. They include:

- No personal information is to be collected unless authorized by statute or consented to by the individual;
- Personal information should, where possible, be collected from the individual, and not from third party sources; and where it is collected from third parties, the individual should be informed of that fact and be given the opportunity to review it;
- ♦ Where personal information is collected, the agency collecting the information will advise the individual

In the medical arena it is easy to rationalize data gathering as an activity undertaken for the sake of the individual and society. But information may be used for many purposes that are not benevolent, and the collection of medical data can easily turn into medical surveillance. Such surveillance, in turn, can lead to unprecedented forms of supervision of personal life.

Beverly Woodward
1995

exactly the uses for which the information is being collected and will be utilized and, if it is to be used for other purposes, consent of the individual will be obtained;

- The personal information collected shall be secured and the government agency will ensure that it is available only to those who require the information to provide the service or conduct the business for which the information was collected.
- Personal information collected by a government agency will be used only for the purpose it is collected; and
- Each individual is entitled to personal information about themselves held by any government agency and has the right to request that it be corrected if they feel it is inaccurate.

Although the Information and Privacy Commissioner does not have any specific authority under the Act to do so, this office has been receiving privacy complaints and making inquiries and recommendations with respect to breaches of the provisions of the Act dealing with personal privacy. The only option other than a review process with recommendations, is for the offending government employee to be prosecuted under the Act . Prosecution, however, is both unlikely except in extreme cases, and not very instructive. The Standing

Patients privacy is steadily eroding in the name of health research, ready access to personal information and administrative efficiency — and Canadians are the last to know. A recent survey conducted for the Canadian Medical Association (CMA) revealed that three out of four Canadians believe that information they give their doctor is kept confidential. The reality is far different; the lineup behind our doctors — all claiming to “need to know” — is long and growing.

Personal health information stored in electronic systems is becoming fair game for bureaucrats, researchers, as well as insurance and pharmaceutical companies, among others.

Bruce Phillips
Privacy Commissioner for
Canada
Annual Report 1999/2000

Committee on Accountability and Oversight has recently recommended that the Information and Privacy Commissioner be given specific authority to investigate and make recommendations with respect to breaches of the privacy provisions of the Act. This will give more weight to the recommendations made by the Information and Privacy Commissioner and is in keeping with the ever growing concern being expressed by the public about the protection of their personal, private information.

III. REQUESTS FOR REVIEW

Under section 28 of the *Access to Information and Protection of Privacy Act*, a person who has requested information from a public body, or a third party who may be affected by the release of information by a public body, may apply to the Information and Privacy Commissioner for a review of that decision. This includes decisions about the disclosure of records, corrections to personal information, time extensions and fees. The purpose of this process is to ensure an impartial avenue for review of discretionary and other decisions made under the Act.

There is enormous power for the individual to have the right to access information on how their government does business, and this power is feared by many. But it is this power that makes democracy vibrant and is an underpinning of an informed society.

Lorraine Dixon
Executive Director
Office of the Information
and Privacy Commissioner
of British Columbia

March 2001

A Request for Review is made by a request in writing to the Commissioner's Office. This request must be made within 30 days of a decision by a public body in respect to a request for information. There is no fee for a request for review. A Request for Review may be made by a person who has made an application for information under the Act or by a third party who might be mentioned in or otherwise affected by the release of the information requested.

Requests for Review are reviewed by the Commissioner. In most cases, the Commissioner will first request a copy of the original request made and a copy of all responsive documents from the public body involved. In most cases, the Commissioner will review the records in dispute. Generally, an attempt will first be made by the

The story-of-the-year about excessive secrecy has to do with the government's failure to disclose to the public, after Cabinet decisions are made, the background information, analysis of problems and policy options presented to Cabinet for consideration in coming to the decision.

The Hon. John M. Reid, PC
Information Commissioner
for Canada

Annual Report 2000/2001

Commissioner's Office to mediate a solution satisfactory to all of the parties. In several cases, this has been sufficient to satisfy the parties. If, however, a mediated resolution does not appear to be possible, the matter moves into an inquiry process. All of the relevant parties, including the public body, are given the opportunity to make written submissions on the issues. In most cases, each party is also given the right to reply, although this has not always proven to be necessary.

Several matters were reviewed by the Commissioner in the last year and Recommendations made. Other requests were resolved without the necessity of a complete review process.

During the 2000/2001 fiscal year, four reviews were completed and recommendations made. The ATIPP Commissioner's recommendations were accepted in three cases and rejected in one. Unfortunately, the government department which refused to accept the recommendation made was the Financial Management Board, which has had an ongoing difficulty in accepting the obligations imposed on it by the Access to Information and Protection of Privacy Act.

IV. REVIEW RECOMMENDATIONS MADE

Review Recommendation 00-015 and 00-015.1

In my opinion, the fact that documents are prepared for the Financial Management Board or that documents are presented to the Financial Management Board does not, without more, make them "confidences" within the meaning of the Act. To my mind, for something to constitute a "confidence" of the Executive Council, it must relate to something being debated by the Board or the Executive Council. The reason for this exemption is to ensure that the Executive Council can participate in frank and open discussion without the substance of such discussions becoming open to the public. In order to qualify as a "confidence", therefore, it must be something more than simply historical fact or something provided for informational purposes only.

Elaine Keenan Bengts
Information and Privacy
Commissioner for the NWT
Review Decision 00-015

This Request for Review arose out of a request by a member of the press for copies of reports prepared for the Financial Management Board by each government department with respect to belt tightening measures taken or proposed in August, 1999. Twelve government departments prepared such reports. Each of the packages outlined areas in which the department in question might cut costs and an indication of the anticipated impact of such cuts. The Financial Management Board took the position that these documents were protected from disclosure pursuant to section 13(1)(a) because they would reveal a confidence of the Executive Council, in particular, advice, proposals, requests for directions, recommendations, analysis or policy options prepared for presentation to the Financial Management Board (FMB). In a preliminary recommendation, the Information and Privacy Commissioner requested more information from FMB about the context within which the records were prepared and the authority of FMB to require the production of such records. She indicated that if the records were prepared for "informational purposes only" and not for the purpose of providing recommendations, advice or proposals, they would not have constituted a "cabinet confidence" such as to be exempt from disclosure under s. 13(1)(a). If, on the other hand, FMB

When faced with a request for information, it is not for the government agency involved to decide whether or not the applicant's request is still "necessary". That decision is for the Applicant, and the Applicant alone, to make. It is of no consequence whatsoever what use the Applicant wishes to make of the information and access cannot be limited for such reasons.

Elaine Keenan Bengts
Information and Privacy
Commissioner of the NWT

Review Recommendation
00-016

could show that the records did include recommendations, advice or proposals, those portions of the records which reviewed factual background should be released to the applicant as those portions did not constitute recommendations, advice or proposals and could be severed.

Subsequently to the issuance of this recommendation, FMB did provide more background as to the way in which the records came to be and the authority of FMB to require the creation of such documents. After reviewing these submissions, the Information and Privacy Commissioner confirmed her recommendation that those portions of the records which constituted recommendations, advice and proposals should be severed from the background information and that the background information should be released.

The Financial Management Board declined to follow the recommendations of the Information and Privacy Commissioner and no information was released to the Applicant. The departments refusal to accept the recommendations of the ATIPP Commissioner continued the disturbing trend in this department which has been discussed in the previous annual reports of this office.

Review Recommendation 00-16

This Request for Review came from a businessman who had been unsuccessful in a tendering process to provide

In this case, despite the training provided to the employee in question, a mistake was made. These things happen. However, it seems to me that the more profile an issue is given, the more likely it is that employees will stop to think about it when undertaking their responsibilities. It seems to me that more profile could be given to the Act on a government wide basis. There are many ways this can be done. As a first step, a "government wide" policy and approach to the Act would clearly provide the higher profile and emphasize the importance of the issue.

Elaine Keenan Bengts
Review Recommendation
00-017

certain services to the Public Utilities Board (PUB). He requested information from the PUB concerning the tendering process and was advised that the Access to Information and Protection of Privacy Act did not apply to the PUB and that no information would, therefore, be provided. Some very limited information was provided by the Department of the Executive, but it was not the specific information which the Applicant wanted. The Applicant disputed the Public Utilities Board's assertion that it was not subject to the ATIPP Act. At the time, the Public Utilities Board was not listed in Schedule A of the regulations and was not, therefore, directly subject to the Act. The Information and Privacy Commissioner pointed out that the Public Utilities Act provides that the Board's secretary is to be appointed by the Minister and is a member of the public service. The same act further provides that the secretary is to keep records of all proceedings of the board and to manage Board records. It goes on to say that the secretary shall make available for public inspection decisions and orders of the Board. In these circumstances, the Information and Privacy Commissioner found that, despite the fact that the PUB was not specifically listed in Schedule A of the regulations, the above provisions suggested that the records of the Board were "in the control of" the Minister responsible for the Board and that they were, therefore, subject to an access to information request.

The Public Utilities Board has since been added to Schedule "A" and is, therefore, directly subject to the ATIPP Act.

Section 4(d)(i) clearly allows the release of personal third party information for the purpose of collecting a fine or debt owed by an individual to the Government of the Northwest Territories or a public body. SRHB, itself a public body, is owed money by certain individuals. Another public body, NWT Health Care, has the information that would assist in collecting those debts. The Act clearly and unequivocally provides for an exception to the protection of third party private information in such circumstances.

Elaine Keenan Bengts
Information and Privacy
Commissioner of the NWT
Review Recommendation
01-018

Review Recommendation 00-17

This matter was raised by an individual who had provided her curriculum vitae to the government as part of her response to a call for tenders for certain contract work. Information in her proposal was released to a third party (one of the other tendering parties) and the Applicant filed a complaint that her information had been improperly used. A request was made to the Department of the Executive to investigate the allegation that the information had been released to a third party and that investigation did confirm that an error had been made by an employee of the department and personal information had been released to a third party without the Applicant's consent. The Information and Privacy Commissioner accepted that the improper release of the information was a simple mistake as a result of the employee's incomplete knowledge of the ATIPP Act. Recommendations were made that a basic educational program should be developed to provide a basic understanding of the Act and the obligations of public bodies to both provide access to information where mandated and to protect the personal information of individuals where required.

Review Recommendation 01-018

In this case, the Stanton Regional Health Board (SRHB) asked the Information and Privacy Commissioner to review a decision by another government department,

A solution to the problem of the culture of secrecy would not, in and of itself, repair the crumbling foundations of accountability in government. A decade or more of neglect of basic, good information management has devastated the ability of departments to create, maintain and effectively use and institutional memory. Wheels are reinvented, history repeats itself (for better or for worse), ministers receive incomplete advice, programs are more easily politicized, the ability to audit decisions is compromised, the historical record of our time is eroded, the right of access to information is undermined and governance moves from the realm of the professional to that of the amateur.

The Hon. John Reid, P.C.
Information Commissioner
for Canada
2000/2001 Annual Report

the Department of Health, to refuse to provide forwarding addresses for individuals who had obtained uninsured services from the SRHB but had left the Northwest Territories without paying for those services. NWT Health Care receives "migration reports" from other provinces and territories for individuals who apply for health care coverage elsewhere in Canada. These reports include the individual's new address. SRHB sought to obtain these addresses so that they could pursue the collection of the monies owing to them.

The Department of Health argued that the information in question is to be managed in accordance with Section 15 of the Medical Care Act which prohibits the release of personal information except in very narrow and specific circumstances. SRHB argued that the Access to Information and Protection of Privacy Act takes precedence over the Medical Care Act and that the ATIPP Act allows for the disclosure of personal information "for the purpose of collecting a fine or debt owed by an individual to the Government of the Northwest Territories or a public body." The Information and Privacy Commissioner recommended that the information in question could and should be provided to the SRHB because the ATIPP Act clearly and unequivocally provides for an exception to the protection of third party information where the purpose is to collect a fine or a debt owing to a public body. Furthermore, the ATIPP Act did take precedence over the Medical Care Act. As the SRHB was a public body seeking to collect a debt, the sharing of personal information in this case was allowed.

VII. STATISTICS

In 2000/2001, nine new Requests for Review were received. This is two more than received last year. Of these, one was resolved by the issuance of recommendations, three were resolved by means of negotiation and mediation between this office and the parties and two were withdrawn. The three remaining are currently under review and recommendations are expected within a short period of time.

In 2000/2001, the Department of the Executive and the Department of Health and Social Services were the departments most often involved in Requests for Review.

Having an identified genetic disability or predisposition to a disease could create a social stigma that adversely affects an individual's life. The concern is that an entire class of genetic "undesirables" might be created, with the resultant discrimination in the context of employment, housing and insurance.

Dr. Ann Cavoukian
Information and Privacy
Commissioner for Ontario

Annual Report, 2000

VIII. RECOMMENDATIONS

Many of the recommendations made in the Information and Privacy Commissioner's annual report last year have been accepted in whole or in part by the legislative assembly and it is anticipated that amendments to the Act will be forthcoming in the near future.

The IPC believes that while genetic research offers untold benefits in terms of medical research, if not properly regulated, it could create gross invasions of both bodily and informational privacy. The development of a proper balance and effective controls is not a simple task, requiring participation from all sides of this discussion — patients and doctors; researchers and ethicists; government and private sector companies; employers and employees.

Dr. Ann Cavoukian
Information and Privacy
Commissioner of Ontario

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One of those recommendations, however, that municipalities be added as public bodies under the Act, was referred to the Association of Municipalities, the Department of Justice and the Department of Municipal and Community Affairs for further discussion. I continue to consider this to be a priority. Municipal officials in both Yellowknife and Hay River have commented on the need for guidelines and consistency, particularly when dealing with access to information issues. Whether new legislation is created to deal with municipalities or municipalities are included under the current legislation, I continue to believe that this should be one of the priorities of this government.

As suggested in the introduction to this report, privacy issues are likely to be prominent over the next number of years. With the Federal Privacy Commissioner taking the position that the *Personal Information and Electronic Documents Act*, applies in the Northwest Territories effective January 1st, 2001, it is important for the Northwest Territories to consider its own legislation to govern the protection of personal information in the private sector as soon as possible. Failing the implementation of a "made in

the Northwest Territories” solution, the Federal Privacy Commissioner will continue to have the power to make decisions about privacy issues in local business and commercial activities. It is all the more important to create a Northwest Territories solution in light of the rapid advance of new communications technologies and the ever increasing ability of the computerized world to use and misuse information.

The overarching purpose of access to information legislation, then, is to facilitate democracy. It does so in two related ways. It helps to ensure first, that citizens have the information required to participate meaningfully in the democratic process, and secondly, that politicians and bureaucrats remain accountable to the citizenry.

Justice G.V. LaForest
Supreme Court of Canada
Dagg v. Canada (Minister of Finance) [1997] 2 S.C.R. 432-3

Another area that requires some attention is legislation to deal with the protection of personal health information. As noted in the introduction to this report, several jurisdictions have already passed such legislation and others are contemplating it. The federal government, together with the provinces and territories, is exploring ways in which the use of communications technologies can enhance the provision of health care services. With the use of such technologies, however, comes the increased risk that the information will end up in the hands of unauthorized people and will be used for purposes never intended. It is important to have good legislation in place that will provide strict guidelines for the whole of the health industry when dealing with personal health information.